

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 315
State and Local Government Committee Substitute Adopted 5/7/13
House Committee Substitute Favorable 5/22/13
House Committee Substitute #2 Favorable 6/11/13

Short Title: Municipal Services.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT WHEN A PROPERLY SUBMITTED VOLUNTARY ANNEXATION PETITION IS DEFEATED BY VOTE OF THE MUNICIPAL GOVERNING BODY THE MUNICIPALITY HAS A DUTY TO PROVIDE SOME MUNICIPAL SERVICES UPON PAYMENT OF DEFINED COSTS, TO LEGISLATIVELY ANNEX CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF DURHAM THAT WAS PETITIONED FOR ANNEXATION, AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO DELAY THE EFFECTIVE DATE OF VOLUNTARY ANNEXATIONS, AND TO AUTHORIZE THE CITY OF DURHAM TO USE DESIGN-BUILD DELIVERY METHODS FOR THE DESIGN AND CONSTRUCTION OF A POLICE HEADQUARTERS AND ANNEX FACILITY, TWO POLICE SERVICE CENTERS, AND A 911 FACILITY, AND AUTHORIZING THE COUNTY OF DURHAM TO CONSTRUCT WATER TREATMENT PLANT AND WASTEWATER TREATMENT PLANT PROJECTS WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES, AND CONCERNING NOTES OR DEEDS OF TRUST TO RESERVE WASTEWATER TREATMENT CAPACITY.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 16 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-328. Provision of municipal services to certain properties.

(a) A municipality shall provide municipal services as defined under subsection (d) of this section to any property if that property owner submitted a petition for voluntary annexation under Article 4A of this Chapter, and the municipal governing board voted on an annexation ordinance for that property but the annexation ordinance failed of adoption. This section applies if the property owner (i) submits to the governing board a notice exercising the provisions of this section within 60 days of this section becoming law and (ii) agrees in writing to make any road improvements that were contained in any utility extension agreement that was presented to the governing board at the same meeting as the annexation ordinance failed of adoption. The requirement to make road improvements is binding upon the property owner.

(b) A municipality providing municipal services under subsection (a) of this section may impose terms on the property owner no more burdensome than the following:



- 1 (1) Requiring the payment by the property owner or a person designated by the
2 property owner of the cost and expense of any infrastructure improvements
3 necessary for delivery of municipal services and integration into the
4 municipal utility system;
5 (2) Requiring the design and construction by the property owner or a person
6 designated by the property owner of the infrastructure improvements
7 according to municipal requirements by professionals licensed in this State;
8 (3) Requiring the warranty and dedication of the infrastructure improvements to
9 the municipality; and
10 (4) Charging the property owner twice the rate for water and sewer services
11 compared with property owners within the primary corporate limits of the
12 municipality.

13 (b1) The municipality shall accept the dedication of infrastructure improvements under
14 subsection (b) of this section and be responsible for their maintenance. The municipality may
15 not condition municipal services on any other requirement not set forth in this section.

16 (b2) The cost of any improvement made by a property owner under this section shall be
17 reimbursable in accordance with the requirements of that municipality. The municipality will
18 require any property owner under its jurisdiction to make those improvements referred to under
19 this section adjacent to their property, if not already made at the time the property comes under
20 the municipality's jurisdiction.

21 (c) If the municipality or the General Assembly annexes some or all of the property
22 receiving municipal services under subsection (a) of this section, the municipality may from
23 and after the effective date of the annexation no longer charge up to twice the rate under
24 subsection (b) of this section and instead charge the same rate as charged for in-city customers.

25 (c1) Neither the municipality nor the county may change the zoning designation of a
26 property receiving municipal services under this section without the consent of the property
27 owner.

28 (d) For purposes of this section, the term "municipal services" only means water or
29 sewer services, but only if the municipality has water or sewer capacity. For purposes of this
30 section, the term "municipal services" specifically does not include any of the following
31 services of the municipality: police protection, fire protection, solid waste services, or street
32 maintenance services."

33 **SECTION 2.** Effective June 3, 2023, the corporate limits of the City of Durham are
34 extended by adding the following described property:

35 **COLVARD FARMS TRACT**

36 Beginning at an iron pin at the northeastern corner of the United States of America situated on
37 the western right-of-way of N.C. Highway 751, said point being located N 34 deg.19'27" W,
38 1034.39 ft. from North Carolina Geodic Survey monument "Lucas" having NAD 1983
39 coordinates of North 771,088.0540, and East 2,016,390.0780; thence from the point of
40 Beginning leaving the western right-of-way of N.C. Highway 751 along the northern line of
41 United States of America, S 38 deg.41'06"W, 378.28 ft. to an iron pin; thence S 09
42 deg.12'15"W, 261.17 ft. to an iron pin; thence S 09 deg.12'15"W, 316.59 ft. to an iron pin;
43 thence S 45d eg.38'27"W, 341.73 ft. to a point in the centerline of a stream; thence S 07
44 deg.47'55"W, 517.91 ft. to an iron pin in a Duke Energy Company easement; thence S 70 deg.
45 27'24"W, 211.58 ft. to an iron pin at the northeastern corner of Jeffrey W. Massey; thence
46 along the northern line of Jeffrey W. Massey and Lloyd Allen Massey, N 88 deg.45'27"W,
47 1133.83 ft. to 5/8" diameter iron pipe; thence S 16 deg.24'44"W, 156.24 ft. to a point in the
48 northern line of Cleo Cole, et al; thence S 86 deg.55'26"W, 403.22 ft. to an iron pin; thence
49 leaving the northern line of Cleo Cole, et al, along the eastern line of Colvard Farms
50 Homeowners Association, N 01 deg.49'11"E, 214.46 ft. to an iron pin; thence N 00 deg.
51 30'28"W, 214.46 ft. to an iron pin; thence N 02 deg.41'48"W, 106.32 ft. to a 3/4" diameter iron

1 pipe at the southeastern corner of L&K Properties of NC, LLC; thence along the eastern line of
2 L&K Properties, LLC and Walter J. Kozak, N 04 deg.59'54"W, 421.90 ft. to a 3/4" diameter
3 pipe on the southern line of Millennium Commercial Properties, LLC; thence along the
4 southern line of Millennium Commercial Properties, LLC, N 87 deg.53'31"E, 480.87 ft. to a
5 point; thence N 01 deg. 40'48"E, 97.74 ft. to an iron pin; thence N 88 deg.18'25"E, 4.94 ft. to a
6 point; thence N 00 deg.23'08"E, 22.43 ft. to an iron pin; thence S 87 deg.52'37"W, 257.24 ft. to
7 a 5/8" diameter iron pipe; thence N 17 deg.49'10"W, 650.46 ft. to a 3/4" diameter iron pipe on
8 the southern line of United States of America; thence N 67 deg.58'57"E, 130.79 ft. to a 5/8"
9 diameter pipe; thence N 54 deg.56'04"W, 389.78 ft. to a 5/8" diameter iron pipe; thence N 75
10 deg.06'12"W, 185.89 ft. to a 3/4" diameter iron pipe on the southern line of Southern Durham
11 Development, LLC; thence along the southern line of Southern Durham Development, LLC, S
12 89 deg.29'57"E, 839.78 ft. to a 3/4" diameter iron pipe; thence S 89 deg.56'10"E, 670.70 ft. to
13 an iron pin; thence S 89 deg.09'36"E, 909.21 ft. to a 1" diameter iron pipe; thence S 89
14 deg.07'00"E, 269.18 ft. to a 3/4" diameter iron pipe on the western right-of-way of N.C.
15 Highway 751; thence along the western right-of-way of N.C. Highway 751, S 35 deg.33'20" E,
16 200.13 ft. to an iron pin; said point being the point and place of Beginning; containing 87.125
17 acres and being a parcel situated near the southwestern corner of N.C. Highway 751 and the
18 Chatham County line.

19 20 751 SOUTH ANNEXATION AREA TRACTS/PARCELS

21 A certain tract or parcel of land lying and being in the county of Durham, Triangle Township,
22 North Carolina, being more fully described as follows:

23 Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane
24 values of $y = 236649.284\text{m}$ and $x = 613545.162\text{m}$; thence from said monument S $30^{\circ}57'01''\text{e}$,
25 for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y
26 $= 236448.339\text{m}$ and $x = 613665.665\text{m}$ and being the true point of beginning; thence in a
27 northeasterly direction, N $57^{\circ}07'16''\text{e}$, for a distance of 34.66' to a point; thence with the line of
28 the center line of NC Highway 751, S $32^{\circ}52'44''\text{e}$, for a distance of 1,551.59' to a point; thence
29 in a generally northeasterly direction, N $57^{\circ}07'16''\text{e}$, for a distance of 32.72' to an existing iron
30 pipe; thence in a southeasterly direction, S $86^{\circ}16'29''\text{e}$, for a distance of 10.45' to an existing
31 iron pipe; thence with the line of now or formerly Chancellors Ridge HOA, S $86^{\circ}24'07''\text{e}$, for a
32 distance of 216.17' to an existing iron pipe; thence with the line of now or formerly Mary C.
33 Turner, S $00^{\circ}26'30''\text{w}$, for a distance of 335.16' to an existing iron pipe; thence in a
34 southwesterly direction, S $57^{\circ}18'26''\text{w}$, for a distance of 30.52'; thence with the center line of
35 NC Highway 751, S $32^{\circ}41'34''\text{e}$, for a distance of 118.62' to a point; thence continuing with
36 said line, S $33^{\circ}02'59''\text{e}$, for a distance of 731.00' to a point; thence continuing with said line, S
37 $32^{\circ}57'53''\text{e}$, for a distance of 415.55' to a point; thence continuing with said line, S $32^{\circ}56'08''\text{e}$,
38 for a distance of 1,126.65' to a point; thence in a northwesterly direction, N $89^{\circ}14'00''\text{w}$, for a
39 distance of 36.68' to an existing iron pipe; thence with the line of now or formerly Seven Five
40 One Investments, LLC, N $89^{\circ}14'00''\text{w}$, for a distance of 268.97' to an existing iron pipe; thence
41 with the line of now or formerly Seven Five One Investments, LLC, N $89^{\circ}29'56''\text{w}$, for a
42 distance of 1,579.97' to an existing iron pipe; thence with the line of now or formerly Seven
43 Five One Investments, LLC, N $89^{\circ}30'43''\text{w}$, for a distance of 839.77' to an existing iron pipe;
44 thence with the line of now or formerly United States of America, N $75^{\circ}00'42''\text{w}$, for a distance
45 of 519.06' to an existing concrete monument; thence continuing with said line, N $30^{\circ}11'02''\text{e}$,
46 for a distance of 1,029.17' to an existing concrete monument; thence continuing with said line,
47 N $38^{\circ}16'43''\text{w}$, for a distance of 784.32' to an existing iron pipe; thence continuing with said
48 line, S $86^{\circ}37'55''\text{e}$, for a distance of 642.69' to an existing iron pipe; thence continuing with
49 said line, N $16^{\circ}46'38''\text{w}$, for a distance of 176.43' to an existing iron pipe; thence with the line
50 of now or formerly United States of America, N $16^{\circ}47'45''\text{w}$, for a distance of 433.28' to an
51 existing iron pipe; thence continuing with said line, N $89^{\circ}31'40''\text{w}$, for a distance of 871.70' to

1 an existing iron pipe; thence continuing with said line, N 38°08'32"e, for a distance of 416.49'
2 to an existing iron pipe; thence continuing with said line, N 78°44'36"w, for a distance of
3 514.35' to an existing iron pipe; thence continuing with said line, N 16°19'20"e, for a distance
4 of 927.30' to an existing iron pipe; thence continuing with said line, N 44°29'56"e, for a
5 distance of 498.53' to an existing concrete monument; thence continuing with said line, S
6 73°14'47"e, for a distance of 857.25' to an existing iron pipe; thence continuing with said line,
7 S 86°33'52"e, for a distance of 24.92' to the point and place of beginning, containing 7,426,585
8 square feet or 170.491 acres, more or less according to survey entitled "Land Title Survey
9 Prepared for Southern Durham Development, Inc." dated December 2007 prepared by Jonathan
10 F. Murphy Pls 1-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C.
11 27617, to which reference is made for a more perfect and complete description.

12 Also, a certain tract or parcel of land lying and being in the county of Durham, Triangle
13 Township, North Carolina, being more fully described as follows:

14 Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane
15 values of $y = 236649.284\text{m}$ and $x = 613545.162\text{m}$; thence from said monument S 30°57'01"e,
16 for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y
17 $= 236448.339\text{m}$ and $x = 613665.665\text{m}$ and being the true point of beginning; thence with the
18 line of the southwesterly right-of-way of NC Highway 751, S 32°52'44"e, for a distance of
19 1,507.27' to an existing iron pipe; thence continuing with said line, S 32°33'08"w, for a distance
20 of 210.87' to an existing iron pipe; thence continuing with said line, S 32°41'34"e, for a
21 distance of 366.69' to an existing iron pipe in the westerly right-of-way of NC Highway 751;
22 thence in a generally northwesterly direction, N 05°27'49"w, for a distance of 133.40' to an
23 existing iron pipe in the easterly right-of-way of NC Highway 751 and said iron pipe being the
24 point of beginning; thence with the line of the right-of-way of NC Highway 751, N
25 32°37'02"w, for a distance of 414.82' to an existing iron pipe; thence continuing with said line,
26 S 86°16'29"e, for a distance of 10.45' to an existing iron pipe; thence with the line of now or
27 formerly Chancellors Ridge HOA, S 86°24'07"e, for a distance of 216.17' to an existing iron
28 pipe; thence with the line of now or formerly Mary C. Turner, S 00°26'30"w, for a distance of
29 335.16' to the point and place of beginning, containing 37,918 square feet or 0.870 acres, more
30 or less according to survey entitled "Rezoning Plat Prepared for Seven Five One Investments,
31 LLC. of Colvard Farms Property" dated December 2007 prepared by Jonathan F. Murphy Pls
32 1-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C.27617, to
33 which reference is made for a more perfect and complete description.

34 **SECTION 3.** Section 2.3(a) of the Charter of the City of Durham, being Chapter
35 671, Session Laws of 1975, as added by Chapter 342 of the 1993 Session Laws, reads as
36 rewritten:

37 "(a) The provisions of G.S. 160A-31(d), 160A-58.2, and 160A-58.7 notwithstanding, the
38 city council may make annexation ordinances adopted pursuant to Parts 1 or 4 of Article 4A of
39 Chapter 160A of the General Statutes effective on any specified date within ~~three~~ 10 years from
40 the date of passage of the annexation ordinance."

41 **SECTION 4.** Article 8 of Chapter VI of the Charter of the City of Durham, being
42 Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to
43 read as follows:

44 "Sec. 85.1. Utilization of design-build delivery methods. (a) The City may award contracts
45 for the design and construction of a police headquarters and annex facility, two police service
46 centers, and a 911 facility without being subject to the requirements of G.S. 133-1, 133-2, or
47 133-3, the provisions of Article 3D of Chapter 143 of the General Statutes, and Article 8 of
48 Chapter 143 of the General Statutes. The authorization granted in this section includes the use
49 of the following methods: design-build; design-build-operate; design-build-operate-maintain;
50 or any combination of design-build, operate, or maintain.

1 **(b)** The City shall obtain proposals from at least three design-build teams for the
2 projects authorized under subsection (a) of this section. If three proposals are not received and
3 the project has been publicly advertised for a minimum of 30 days, the City may proceed with
4 the proposals received. In evaluating the proposals received, the City may pay the same fixed
5 stipend to short-listed design-build teams for preparation of additional technical proposals if
6 necessary to advance the contract award process. The evaluation of design-build teams and the
7 proposals shall not be exempt from the requirements of the City's Equal Business Opportunity
8 Program Ordinance, created pursuant to the authority granted in Section 84.1 of this Charter, to
9 establish minority and women business participation goals.

10 **(c)** The City Council shall award the contract to the best qualified design-build team,
11 taking into account the time of completion of the project, the capital and operation and
12 maintenance cost of the project, the technical merits of the proposal, and any other factors and
13 information set forth in the request for proposal that the City determines to have a material
14 bearing on the ability to evaluate any proposal."

15 **SECTION 5.(a)** The County of Durham may contract for the design and
16 construction or design, construction, and operation of water treatment and wastewater treatment
17 plant projects for the purpose of providing services throughout Durham County without being
18 subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and
19 143-64.32. The authorization includes, if deemed appropriate by the Durham County Board of
20 Commissioners, the use of the single-prime contractor method of design and construction, the
21 design-build or design-build-operate method of construction, or a request for proposals and
22 negotiation as an alternative design and construction method.

23 **SECTION 5.(b)** The County of Durham shall obtain proposals from and interview
24 at least three design-build teams, or design-build-operate teams, as appropriate, that have
25 submitted proposals for a water treatment plant or wastewater treatment project. If three
26 proposals are not received and the project has been publicly advertised for a minimum of 30
27 days, the County may proceed with the proposals received. The Board of Commissioners shall
28 award the contract to the best qualified contractor, taking into account the time of completion
29 of the project, the capital and operation and maintenance cost of the project, the technical
30 merits of the proposal, including, but not limited to, reliability and protection of the
31 environment, and any other factors and information set forth in the request for proposals that
32 the County determines to have a material bearing on the ability to evaluate any proposal.

33 **SECTION 6.** No note or deed of trust granted to a county for the purpose of
34 securing or reserving wastewater treatment capacity is valid or enforceable if that capacity is
35 not utilized by the maker or grantor.

36 **SECTION 7.** If a final order by a court of competent jurisdiction finds that any
37 portion of this act is unconstitutional, Sections 1, 2, and 6 of this act are void.

38 **SECTION 8.** This act is effective when it becomes law.