

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1082\*  
Committee Substitute Favorable 6/5/96

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

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

1 soon as possible following the effective date of annexation. In  
2 any event, the plans shall call for construction to be completed  
3 within two years of the effective date of annexation.

4 d. Set forth the method under which the municipality plans to  
5 finance extension of services into the area to be annexed.

6 e. Provide for street paving service on substantially the same basis  
7 and in the same manner as that service is provided within the rest  
8 of the municipality prior to the annexation.

9 f. Include a summary of city police, fire, solid waste, street  
10 maintenance and paving, water and sewer services provided to  
11 current city residents as of 90 days prior to the date set for the  
12 public hearing.

13 (4) A statement of the impact of the annexation on any rural fire department  
14 providing service in the area to be annexed and a statement of the  
15 impact of the annexation on fire protection and fire insurance rates in  
16 the area to be annexed, if the area where service is provided is in an  
17 insurance district designated under G.S. 153A-233, a rural fire  
18 protection district under Article 3A of Chapter 69 of the General  
19 Statutes, or a fire service district under Article 16 of Chapter 153A of  
20 the General Statutes. The rural fire department shall make available to  
21 the city not later than 30 days following a written request from the city  
22 all information in its possession or control, including but not limited to  
23 operational, financial and budgetary information, necessary for  
24 preparation of a statement of impact. The rural fire department forfeits  
25 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a  
26 good faith response within 45 days following receipt of the written  
27 request for information from the city, provided that the city's written  
28 request so states by specific reference to this section.

29 (5) If the lot or tract standard was used to qualify the area, the report shall  
30 state the classification of each lot or tract in the area to be annexed as to  
31 use and size. If a population standard was used to qualify the area, the  
32 report shall state how the population estimate of the area was  
33 determined.

34 (6) A clear and easily understandable statement notifying persons affected  
35 by the annexation of their right to appeal under G.S. 160A-50, the right  
36 to request water and sewer services under subdivision (3)b. of this  
37 section, and the remedies under G.S. 160A-49(h) and (k) for failure of  
38 the city to provide services.

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

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

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

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

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

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

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

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

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

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

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

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

33          Such notice shall be given by publication once a week for at least two successive  
34 weeks prior to the date of the hearing in a newspaper having general circulation in the  
35 municipality and, in addition thereto, if the area to be annexed lies in a county containing  
36 less than fifty percent (50%) of the land area of the municipality, in a newspaper having  
37 general circulation in the area of proposed annexation. The period from the date of the  
38 first publication to the date of the last publication, both dates inclusive, shall be not less  
39 than eight days including Sundays, and the date of the last publication shall be not more  
40 than seven days preceding the date of public hearing. If there be no such newspaper, the  
41 municipality shall post the notice in at least five public places within the municipality and  
42 at least five public places in the area to be annexed for 30 days prior to the date of public  
43 hearing. In addition, notice shall be mailed at least four weeks prior to date of the

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

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

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

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

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

28 Sec. 6. Section 5 of this act becomes effective on and after January 1, 1996.  
29 All other sections of this act become effective December 1, 1996, and apply to  
30 annexations for which the resolution of intent is adopted on or after that date.