

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 845

Short Title: Reform Annexation Laws. (Public)

Sponsors: Representatives LaRoque and Dollar (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 7, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM THE INVOLUNTARY ANNEXATION LAWS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 2 of Article 4A of Chapter 160A of the General Statutes is
6 repealed.

7 **SECTION 2.** Article 4A of Chapter 160A of the General Statutes is amended by
8 adding a new Part to read:

9 "Part 7.

10 "Involuntary Annexation by Municipalities.

11 "**§ 160A-58.50. Declaration of policy.**

12 It is hereby declared as a matter of State policy:

- 13 (1) That sound urban development is essential to the continued economic
14 development of North Carolina.
15 (2) That municipalities are created to provide the governmental services
16 essential for sound urban development and for the protection of health,
17 safety, and welfare in areas being intensively used for residential,
18 commercial, industrial, institutional, and governmental purposes or in areas
19 undergoing such development.
20 (3) That municipal boundaries should be extended in accordance with legislative
21 standards applicable throughout the State to include such areas and to
22 provide the high quality of governmental services needed therein for the
23 public health, safety, and welfare.
24 (4) That areas annexed to municipalities in accordance with such uniform
25 legislative standards should receive the services provided by the annexing
26 municipality.
27 (5) That in the provision services to protect the health, safety, and welfare is a
28 public purpose.

29 "**§ 160A-58.51. Definitions.**

30 The following terms in this Part shall mean:

- 31 (1) "Contiguous area" shall mean any area which, at the time annexation
32 procedures are initiated, either abuts directly on the municipal boundary or is
33 separated from the municipal boundary by a street or street right-of-way, a
34 creek or river, the right-of-way of a railroad or other public service



1 corporation, lands owned by the municipality or some other political
2 subdivision, or lands owned by the State of North Carolina.

- 3 (2) "Used for residential purposes" shall mean any lot or tract five acres or less
4 in size on which is constructed a habitable dwelling unit.

5 **"§ 160A-58.52. Authority to annex.**

6 The governing board of any municipality may extend the corporate limits of such
7 municipality under the procedure set forth in this Part.

8 **"§ 160A-58.53. Prerequisites to annexation.**

9 A municipality exercising authority under this Part shall make plans for the extension of
10 services to the area proposed to be annexed and shall, prior to the public hearing provided for in
11 G.S. 160A-58.55, prepare a report setting forth such plans to provide services to the area
12 proposed to be annexed. The report shall include:

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

- 15 a. The present and proposed boundaries of the municipality.
16 b. The present major trunk water mains and sewer interceptors and
17 outfalls, and the proposed extensions of such mains, outfalls, and
18 lines as required in subdivision (3) of this section. The water and
19 sewer map shall bear the seal of a registered professional engineer.
20 c. The general land-use pattern in the area proposed to be annexed.

- 21 (2) A statement showing that the area proposed to be annexed meets the
22 requirements of G.S. 160A-58.54.

- 23 (3) A statement setting forth the plans of the municipality for extending to the
24 area proposed to be annexed each major municipal service and the method
25 under which the municipality plans to finance the extension of major
26 municipal services into the area proposed to be annexed as follows:

- 27 a. Provision of police protection, fire protection, solid waste collection,
28 and street maintenance services to the area proposed to be annexed
29 on the date of annexation on substantially the same basis and in the
30 same manner as such services are provided within the rest of the
31 municipality prior to annexation. A contract with a rural fire
32 department to provide fire protection shall be an acceptable method
33 of providing fire protection. A contract with a private firm to provide
34 solid waste collection services shall be an acceptable method of
35 providing solid waste collection services.
36 b. Extension of water and sewer services to each lot or parcel in the
37 area proposed to be annexed, with a proposed timetable for
38 construction of such mains, outfalls, and lines within three and one
39 half years of the effective date of annexation.

- 40 (4) A statement of the impact of the annexation on any rural fire department
41 providing service in the area proposed to be annexed and a statement of the
42 impact of the annexation on fire protection and fire insurance rates in the
43 area proposed to be annexed, if the area where service is provided is in an
44 insurance district designated under G.S. 153A-233, a rural fire protection
45 district under Article 3A of Chapter 69 of the General Statutes, or a fire
46 service district under Article 16 of Chapter 153A of the General Statutes.
47 The rural fire department shall make available to the municipality not later
48 than 30 days following a written request from the municipality all
49 information in its possession or control, including operational, financial, and
50 budgetary information, necessary for preparation of a statement of impact.
51 The rural fire department forfeits its rights under G.S. 160A-58.56 and

1 G.S. 160A-58.57 if it fails to make a good faith response within 45 days
2 following receipt of the written request for information from the
3 municipality, provided that the municipality's written request so states by
4 specific reference to this section.

- 5 (5) A statement showing how the proposed annexation will affect the
6 municipality's finances and services, including municipal revenue change
7 estimates. This statement shall be delivered to the clerk of the board of
8 county commissioners at least 30 days before the date of the public
9 informational meeting on any annexation under this Part.

10 **§ 160A-58.54. Character of area to be annexed.**

11 (a) A municipal governing board may extend the municipal corporate limits to include
12 any area that meets all of the following criteria:

- 13 (1) It shall be adjacent or contiguous to the municipality's boundaries at the time
14 the annexation proceeding is begun, except if the entire territory of a county
15 water and sewer district created under G.S. 162A-86(b1) is being annexed,
16 the annexation shall also include any noncontiguous pieces of the district as
17 long as the part of the district with the greatest land area is adjacent or
18 contiguous to the municipality's boundaries at the time the annexation
19 proceeding is begun.

- 20 (2) At least one-eighth of the aggregate external boundaries of the area shall
21 coincide with the municipal boundary.

- 22 (3) No part of the area shall be included within the boundary of another
23 incorporated municipality.

- 24 (4) The total area to be annexed shall meet the requirements of any of the
25 following:

26 a. Part or all of the area to be annexed must be developed for urban
27 purposes at the time of approval of the report provided for in
28 G.S. 160A-58.53. The area of streets and street rights-of-way shall
29 not be used to determine total acreage under this subdivision. An area
30 developed for urban purposes is defined as any area which meets any
31 one of the following standards:

- 32 1. Has a total resident population equal to at least two and
33 three-tenths persons for each acre of land included within its
34 boundaries.

- 35 2. Has a total resident population equal to at least one person for
36 each acre of land included within its boundaries, and is
37 subdivided into lots and tracts such that at least sixty percent
38 (60%) of the total acreage consists of lots and tracts three
39 acres or less in size and such that at least sixty-five percent
40 (65%) of the total number of lots and tracts are one acre or
41 less in size.

- 42 3. Is so developed that at least sixty percent (60%) of the total
43 number of lots and tracts in the area at the time of annexation
44 are used for residential, commercial, industrial, institutional,
45 or governmental purposes, and is subdivided into lots and
46 tracts such that at least sixty percent (60%) of the total
47 acreage, not counting the acreage used at the time of
48 annexation for commercial, industrial, governmental, or
49 institutional purposes, consists of lots and tracts three acres or
50 less in size.

- 1 4. Is the entire area of any county water and sewer district
2 created under G.S. 162A-86(b1), but this sub-subdivision
3 only applies to annexation by a municipality if all of the
4 following apply:
- 5 I. The municipality has provided in a contract with that
6 district that the area is developed for urban purposes.
7 II. The contract provides for the municipality to operate
8 the sewer system of that county water and sewer
9 district.
10 III. The municipality is annexing in one proceeding the
11 entire territory of the district not already within the
12 corporate limits of a municipality.
- 13 5. Is so developed that, at the time of the approval of the
14 annexation report, all tracts in the area to be annexed are used
15 for commercial, industrial, governmental, or institutional
16 purposes.
- 17 b. Part or all of the area to be annexed either:
- 18 1. Lies between the municipal boundary and an area developed
19 for urban purposes so that the area developed for urban
20 purposes is either not adjacent to the municipal boundary or
21 cannot be served by the municipality without extending
22 services and/or water and/or sewer lines through such
23 sparsely developed area.
- 24 2. Is adjacent, on at least sixty percent (60%) of its external
25 boundary, to any combination of the municipal boundary and
26 the boundary of an area or areas developed for urban
27 purposes as defined in sub-subdivision a. of this subdivision.
28 The purpose of this sub-subdivision is to permit municipal
29 governing boards to extend corporate limits to include all
30 nearby areas developed for urban purposes and where
31 necessary to include areas which at the time of annexation are
32 not yet developed for urban purposes but which constitute
33 necessary land connections between the municipality and
34 areas developed for urban purposes or between two or more
35 areas developed for urban purposes.
- 36 c. The total area to be annexed is completely surrounded by the
37 municipality's primary corporate limits.
- 38 (b) In fixing new municipal boundaries, a municipal governing board shall comply with
39 all the following:
- 40 (1) Use recorded property lines and streets as boundaries. Some or all of the
41 boundaries of a county water and sewer district may also be used when the
42 entire district is not already within the corporate limits of the municipality.
- 43 (2) Not use a connecting corridor consisting solely of a street or street
44 right-of-way to establish contiguity to an outlying, noncontiguous area.
- 45 (3) Not consider property in use for a commercial, industrial, institutional, or
46 governmental purpose if the lot or tract is used only temporarily,
47 occasionally, or on an incidental or insubstantial basis in relation to the size
48 and character of the lot or tract.
- 49 (4) Acreage in use for commercial, industrial, institutional, or governmental
50 purposes shall include acreage actually occupied by buildings or other
51 man-made structures together with all areas that are reasonably necessary

1 and appurtenant to such facilities for purposes of parking, storage, ingress
2 and egress, utilities, buffering, and other ancillary services and facilities.

3 (5) "Necessary land connection" means an area that does not exceed twenty-five
4 percent (25%) of the total area to be annexed.

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

8 **SECTION 3.** This act becomes effective July 1, 2011, and applies to annexations
9 for which a petition has been received under Part 1 or Part 4 of Article 4A of Chapter 160A of
10 the General Statutes on or after that date. Annexations for which a resolution of intent has been
11 adopted under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes before
12 that date shall terminate and may be reinitiated in compliance with Part 7 of Article 4A of
13 Chapter 160A as enacted by this act.