

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 907

Short Title: Community Inclusion & Development Act. (Public)

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

Referred to: Judiciary, if favorable, Government, if favorable, Finance.

May 5, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM THE ANNEXATION PROCESS BY DEALING WITH THE
3 UNIQUE CHALLENGES OF LOW-INCOME MINORITY COMMUNITIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-31 reads as rewritten:

6 "**§ 160A-31. Annexation by petition.**

7 (a) The governing board of any municipality may annex by ordinance any area
8 contiguous to its boundaries upon presentation to the governing board of a petition signed by
9 the owners of all the real property located within such area. The petition shall be signed by each
10 owner of real property in the area and shall contain the address of each such owner.

11 (b) The petition shall be prepared in substantially the following form:

12 DATE:

13 To the _____ (name of governing board) of the (City or Town) of
14 _____

15 1. We the undersigned owners of real property respectfully request that the area
16 described in paragraph 2 below be annexed to the (City or Town) of _____

17 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
18 boundaries of such territory are as follows:

19 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty-one
20 percent (51%) of the households in an area petitioning for annexation pursuant to this section
21 have incomes that are two hundred percent (200%) or less than the most recently published
22 United States Census Bureau poverty thresholds, the governing board of any municipality shall
23 annex by ordinance any area one-eighth of the aggregate external boundaries of which are
24 contiguous to its boundaries upon presentation to the governing board of a petition signed by at
25 least one adult owner of seventy-five percent (75%) of the resident households located within
26 such area. For the purpose of this subsection, if a parcel has more than one owner, the signature
27 of one owner is sufficient.

28 (b2) The petition under subsection (b1) of this section shall be prepared in substantially
29 the following form:

30 DATE:

31 To the _____ (name of governing board) of the (City or Town) of
32 _____



1 1. We the undersigned owners of real property believe that the area described in
2 paragraph 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that
3 the area described in paragraph 2 below be annexed to the (City or Town) of _____

4 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
5 boundaries of such territory are as follows:

6 (c) Upon receipt of the petition, the municipal governing board shall cause the clerk of
7 the municipality to investigate the sufficiency thereof and to certify the result of ~~his~~ the
8 investigation. For petitions received under subsection (b1) or (i) of this section, if the
9 petitioners have elected under subsection (k) of this section to receive a summary report from
10 the Department of Revenue, the clerk shall receive the report from the Department of Revenue
11 as provided in subsection (k) of this section before certifying the sufficiency of the petition.
12 Upon receipt of the certification, the municipal governing board shall fix a date for a public
13 hearing on the question of annexation, and shall cause notice of the public hearing to be
14 published once in a newspaper having general circulation in the municipality at least 10 days
15 prior to the date of the public hearing; provided, if there be no such paper, the governing board
16 shall have notices posted in three or more public places within the area to be annexed and three
17 or more public places within the municipality.

18 (d) At the public hearing all persons owning property in the area to be annexed who
19 allege an error in the petition shall be given an opportunity to be heard, as well as residents of
20 the municipality who question the necessity for annexation. The governing board shall then
21 determine whether the petition meets the requirements of this section. Upon a finding that the
22 petition meets the requirements of this section, the governing board shall have authority to pass
23 an ordinance annexing the territory described in the ~~petition~~ petition, except if the governing
24 body receives a petition under subsection (b1) or accepts a petition under subsection (i) of this
25 section and finds that the petition meets the requirements of the relevant subsection, the
26 governing body shall within 60 days of such finding annex the territory described in the
27 petition, with an effective date no later than 24 months after adoption of the annexation
28 ordinance. Municipal services shall be rendered to such territory in accordance with the
29 requirements of Part 2 (G.S. 160A-35 specifically) or Part 3 (G.S. 160A-47 specifically) of this
30 Article as applicable to the annexing municipality as if the annexation had been done under that
31 part. ~~The~~ Except as provided in this subsection with respect to petitions under subsection (b1)
32 or (j) of this section, the governing board shall have authority to make the annexing ordinance
33 effective immediately or on any specified date within six months from the date of passage of
34 the ordinance.

35 (e) From and after the effective date of the annexation ordinance, the territory and its
36 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
37 such municipality and shall be entitled to the same privileges and benefits as other parts of such
38 municipality. Real and personal property in the newly annexed territory on the January 1
39 immediately preceding the beginning of the fiscal year in which the annexation becomes
40 effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of
41 annexation falls between June 1 and June 30, and the effective date of the privilege license tax
42 ordinance of the annexing municipality is June 1, then businesses in the area to be annexed
43 shall be liable for taxes imposed in such ordinance from and after the effective date of
44 annexation.

45 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the
46 petition is submitted, such area either abuts directly on the municipal boundary or is separated
47 from the municipal boundary by a street or street right-of-way, a creek or river, or the
48 right-of-way of a railroad or other public service corporation, lands owned by the municipality
49 or some other political subdivision, or lands owned by the State of North Carolina. In
50 describing the area to be annexed in the annexation ordinance, the municipal governing board

1 may include within the description any territory described in this subsection which separates
2 the municipal boundary from the area petitioning for annexation.

3 (g) The governing board may initiate annexation of contiguous property owned by the
4 municipality by adopting a resolution stating its intent to annex the property, in lieu of filing a
5 petition. The resolution shall contain an adequate description of the property, state that the
6 property is contiguous to the municipal boundaries and fix a date for a public hearing on the
7 question of annexation. Notice of the public hearing shall be published as provided in
8 subsection (c) of this section. The governing board may hold the public hearing and adopt the
9 annexation ordinance as provided in subsection (d) of this section.

10 (h) A city council which receives a petition for annexation under this section may by
11 ordinance require that the petitioners file a signed statement declaring whether or not vested
12 rights with respect to the properties subject to the petition have been established under
13 G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been
14 established, the city may require petitioners to provide proof of such rights. A statement which
15 declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1
16 shall be binding on the landowner and any such vested right shall be terminated.

17 (i) Using the procedures under this section, the governing board of any municipality
18 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to
19 the governing board of a petition signed by at least one adult owner of at least seventy-five
20 percent (75%) of the resident households located within such area. For purposes of this
21 subsection, a "distressed area" is defined as an area in which at least fifty-one percent (51%) of
22 the households in the area petitioning to be annexed have incomes that are two hundred percent
23 (200%) or less than the most recently published United States Census Bureau poverty
24 thresholds.

25 (j) The petition under subsection (i) of this section shall be prepared in substantially the
26 following form:

27 DATE:

28 To the _____ (name of governing board) of the (City or Town) of
29 _____

30 1. We the undersigned residents of real property believe that the area described in
31 paragraph 2 below meets the requirements of G.S. 160A-31(i) and respectfully request that the
32 area described in paragraph 2 below be annexed to the (City or Town) of _____

33 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
34 boundaries of such territory are as follows:

35 (k) For purposes of determining whether the percentage of households in the area
36 petitioning for annexation meets the poverty thresholds under subsections (b1) and (i) of this
37 section, the petitioners shall submit to the municipal governing board any reasonable evidence
38 that demonstrates the area in fact meets the income requirements of that subsection. The
39 evidence presented may include data from the most recent federal decennial census, other
40 official census documents, signed statements by at least one adult resident of the household
41 attesting to the household size and income level, or any other documentation verifying the
42 incomes for a majority of the households within the petitioning area. Petitioners may elect to
43 submit names, addresses, and social security numbers to the clerk, who shall in turn submit the
44 information to the Department of Revenue. Such information is confidential and is not a public
45 record. The Department shall provide the municipality with a summary report of income for
46 households in the petitioning area. Information for the report shall be gleaned from income tax
47 returns, but the report submitted to the municipality shall not identify individuals or
48 households."

49 **SECTION 2.(a)** G.S. 160A-36(a) reads as rewritten:

50 "(a) A municipal governing board may extend the municipal corporate limits to include
51 any area which either:

- 1 (1) ~~meets~~Meets the general standards of subsection (b), and which meets the
2 requirements of subsection ~~(e)~~(c), or
3 (2) Is a distressed area as defined by subdivision (c)(1a) of this section which is
4 either (i) completely surrounded by the municipality's primary corporate
5 limits or (ii) completely surrounded by that municipality's corporate limits
6 and those of one or more other municipalities, whether those other
7 municipalities are covered by this Part or Part 3 of this Article. In the case of
8 this clause (ii), the area eligible for annexation is only that which is in the
9 extraterritorial jurisdiction of the annexing municipality either under
10 G.S. 160A-360 or under a local act. This subdivision applies only if a
11 petition requesting annexation is signed by at least one owner of real
12 property within the distressed area and filed with the city clerk. In such case,
13 the city shall proceed to determine whether the area requested for annexation
14 qualifies as a distressed area, and if it so determines, it shall adopt a
15 resolution of intent no later than 60 days after such finding and adopt an
16 annexation ordinance as to such area within one year of such finding, with
17 an effective date no later than one year after adoption of the ordinance.
18 Municipal services shall be rendered to such territory in accordance with the
19 requirements of G.S. 160A-35; and the provisions of G.S. 160A-37.1 and
20 G.S. 160A-37.2 regarding rural fire departments and the provisions of
21 G.S. 160A-37.3 governing contracts with private solid waste collection firms
22 shall be applicable to such territory."

23 **SECTION 2.(b)** G.S. 160A-36(c) reads as rewritten:

24 "(c) The area to be annexed must be developed for urban purposes at the time of
25 approval of the report provided for in G.S. 160A-35. For purposes of this section, a lot or tract
26 shall not be considered in use for a commercial, industrial, institutional, or governmental
27 purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or
28 insubstantial basis in relation to the size and character of the lot or tract. For purposes of this
29 section, acreage in use for commercial, industrial, institutional, or governmental purposes shall
30 include acreage actually occupied by buildings or other man-made structures together with all
31 areas that are reasonably necessary and appurtenant to such facilities for purposes of parking,
32 storage, ingress and egress, utilities, buffering, and other ancillary services and facilities. Area
33 of streets and street rights-of-way shall not be used to determine total acreage under this
34 section. An area developed for urban purposes is defined ~~as~~as any of the following:

- 35 (1) Any area which is so developed that at least sixty percent (60%) of the total
36 number of lots and tracts in the area at the time of annexation are used for
37 residential, commercial, industrial, institutional or governmental purposes,
38 and is subdivided into lots and tracts such that at least sixty percent (60%)
39 of the total acreage, not counting the acreage used at the time of annexation for
40 commercial, industrial, governmental or institutional purposes, consists of
41 lots and tracts three acres or less in size.
42 (1a) Any distressed area which is so developed that at least fifty percent (50%)
43 of the total number of lots and tracts in the area at the time of annexation are
44 used for residential, commercial, industrial, institutional, or governmental
45 purposes and is subdivided into lots and tracts such that at least fifty percent
46 (50%) of the total acreage, not counting the acreage used at the time of
47 annexation for commercial, industrial, governmental, or institutional
48 purposes, consists of lots and tracts three acres or less in size. For purposes
49 of this subdivision, a "distressed area" is defined as an area in which at least
50 fifty-one percent (51%) of the households in the area to be annexed have
51 incomes that are two hundred percent (200%) or less than the most recently

published United States Census Bureau poverty thresholds. For purposes of determining whether the percentage of households in the area to be annexed meets the poverty thresholds under this subdivision, the municipal governing board may use any reasonable evidence that demonstrates the area in fact meets the income requirements of this subdivision. The evidence may include data from the most recent federal decennial census, other official census documents, signed affidavits by at least one adult resident of a household attesting to the household size and income level, or any other documentation verifying the incomes for a majority of the households within the area. The Department of Revenue shall provide the municipality with a summary report of income for households in the area. Information for the report shall be gleaned from income tax returns, but the report submitted to the municipality shall not identify individuals or households.

(2) An area so developed that, at the time of the approval of the annexation report, all tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes.

(3) The entire area of any county water and sewer district created under G.S. 162A-86(b1), but this subsection only applies to annexation by a municipality if that:

- a. Municipality has provided in a contract with that district that the area is developed for urban purposes; and
- b. Contract provides for the municipality to operate the sewer system of that county water and sewer district;

provided that the special categorization provided by this subsection only applies if the municipality is annexing in one proceeding the entire territory of the district not already within the corporate limits of a municipality."

SECTION 3.(a) G.S. 160A-48(a) reads as rewritten:

"(a) A municipal governing board may extend the municipal corporate limits to include any ~~area~~ area that complies with the following:

(1) Which meets the general standards of ~~subsection (b), and~~ subsection (b) of this section.

(2) Every part of which meets the requirements of ~~either any of the following:~~

a. subsection (c) Subsection (c) of this section.

b. ~~or subsection (d).~~ Subsection (d) of this section.

c. Is a distressed area as defined by subdivision (c)(1a) of this section which is either (i) completely surrounded by the municipality's primary corporate limits or (ii) is completely surrounded by the municipality's corporate limits and those of one or more other municipalities, whether those other municipalities are covered by this Part or Part 2 of this Article. In the case of this clause (ii), the area eligible for annexation is only that which is in the extraterritorial jurisdiction of the annexing municipality either under G.S. 160A-360 or under a local act. This sub-subdivision applies only if a petition requesting annexation is signed by at least one owner of real property within the distressed area and filed with the city clerk. In such case, the city shall proceed to determine whether the area requested for annexation qualifies as a distressed area, and if it so determines, it shall adopt a resolution of intent no later than 60 days after such finding and adopt an annexation ordinance as to such area within one year of such finding, with an effective date no later than one year after adoption of the ordinance. Municipal services shall be rendered

1 to such territory in accordance with the requirements of
2 G.S. 160A-47; and the provisions of G.S. 160A-49.1 and
3 G.S. 160A-49.2 regarding rural fire departments and the provisions
4 of G.S. 160A-49.3 governing contracts with private solid waste
5 collection firms shall be applicable to such territory."

6 **SECTION 3.(b)** G.S. 160A-48(c) is amended by adding a new subdivision to read:

7 "(c) Part or all of the area to be annexed must be developed for urban purposes at the
8 time of approval of the report provided for in G.S. 160A-47. Area of streets and street
9 rights-of-way shall not be used to determine total acreage under this section. An area developed
10 for urban purposes is defined as any area which meets any one of the following standards:

11 ...

12 (1a) Any distressed area which is so developed that at least fifty percent (50%)
13 of the total number of lots and tracts in the area at the time of annexation are
14 used for residential, commercial, industrial, institutional, or governmental
15 purposes and is subdivided into lots and tracts such that at least fifty percent
16 (50%) of the total acreage, not counting the acreage used at the time of
17 annexation for commercial, industrial, governmental, or institutional
18 purposes, consists of lots and tracts three acres or less in size. For purposes
19 of this subdivision, a "distressed area" is defined as an area in which at least
20 fifty-one percent (51%) of the households in the area to be annexed have
21 incomes that are two hundred percent (200%) or less than the most recently
22 published United States Census Bureau poverty thresholds. For purposes of
23 determining whether the percentage of households in the area to be annexed
24 meets the poverty thresholds under this subdivision, the municipal governing
25 board may use any reasonable evidence that demonstrates the area in fact
26 meets the income requirements of this subdivision. The evidence may
27 include data from the most recent federal decennial census, other official
28 census documents, signed affidavits by at least one adult resident of a
29 household attesting to the household size and income level, or any other
30 documentation verifying the incomes for a majority of the households within
31 the area. The Department of Revenue shall provide the municipality with a
32 summary report of income for households in the area. Information for the
33 report shall be gleaned from income tax returns, but the report submitted to
34 the municipality shall not identify individuals or households.

35"

36 **SECTION 4.** G.S. 143B-437.04(a) is amended by adding a new subdivision to
37 read:

38 "(a) The Department of Commerce shall adopt guidelines for the awarding of
39 Community Development Block Grants to ensure that:

40 ...

41 (3) Priority consideration is given to projects located in areas annexed by a
42 municipality under Article 4A of Chapter 160A of the General Statutes in
43 order to provide water or sewer services to low-income residents. For
44 purposes of this section, low-income residents are those with a family
45 income that is eighty percent (80%) or less of median family income."

46 **SECTION 5.** G.S. 159G-23 is amended by adding a new subdivision to read:

47 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
48 **Water Reserve.**

49 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the
50 Drinking Water Reserve. The Division of Water Quality and the Division of Environmental

1 Health must each establish a system of assigning points to applications based on the following
2 criteria:

3 ...
4 (9) Low-income residents. – A project that is located in an area annexed by a
5 municipality under Article 4A of Chapter 160A of the General Statutes in
6 order to provide water or sewer services to low-income residents has
7 priority. For purposes of this section, low-income residents are those with a
8 family income that is eighty percent (80%) or less of median family
9 income."

10 **SECTION 6.** This act becomes effective October 1, 2011.