NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 921
HOUSE BILL 1058

AN ACT RE-ESTABLISHING THE MUNICIPAL BOARD OF CONTROL AND PROVIDING A PROCEDURE FOR ADMINISTRATIVE INCORPORATION OF CITIES AND TOWNS.

The General Assembly of North Carolina enacts:

Section 1. The Municipal Board of Control shall consist of five members. The Secretary of the Local Government Commission, the Chairman of the Senate Committee on Local Government, and the Chairman of the House of Representatives Committee on Local Government are members of the Board ex officio. The Secretary of the Local Government Commission is ex officio Chairman of the Municipal Board of Control. The Governor shall appoint as members one elected municipal official and one elected county official to serve at his pleasure. Membership on the Board is declared to be an office that may be held concurrently with any other elective or appointive office, as authorized by Article VI, Sec. 9, of the Constitution. The Board's administrative location within the executive departments shall be determined by the Governor.

Members of the Board are entitled to the per diem compensation and allowances prescribed by G.S. 138-5. All expenses of the Board shall be paid from the Contingency and Emergency Fund.

The Board may adopt rules and regulations to carry out its powers and duties.

Sec. 2. Any twenty-five or more qualified voters residing within an area proposed for incorporation as a city may petition the Municipal Board of Control for incorporation of the area. The petition shall contain (i) a description of the proposed corporate boundaries, (ii) a proposed name for the city, (iii) recommendations as to the composition and mode of election of the city governing body within the optional forms set out in G.S. 160-291, and (iv) the names of three persons to act as the interim governing body until the regular governing body is elected and qualified. The Board may prescribe the form of the petition and methods for determining whether it is sufficient, or that incorporation of the area will not adversely affect the normal growth and development of the existing city or town.

Sec. 3. Before an incorporation petition is presented to the Board, the persons proposing to present it shall cause a copy thereof to be delivered to the board of county commissioners of the county in which the city is located and to the governing boards of all other cities and towns in the county or located within three miles of the area but in another county, and shall also publish in a newspaper having a general circulation in the county a notice signed by at least five of them stating (i) the corporate limits of the proposed city, (ii) the proposed name of the city, and (iii) a statement that an incorporation petition will be presented to the Municipal Board of Control. The notice must be published once a week for three successive weeks before the petition is presented.

Sec. 4. Upon presenting an incorporation petition to the Board, the petitioners shall pay to the Board a fee of $200.00. The Board shall then set a time and place for a public hearing on the petition. Notice of the hearing shall be published once a week for three successive weeks in a newspaper having a general circulation in the county, and shall be mailed

to the board of county commissioners and to the governing boards of all other cities and towns in the county or located within three miles of the area but in another county.

Sec. 5. In determining whether a proposed city shall be incorporated, the Board may consider:

(1) Whether incorporation is necessary or expedient and in the public interest.

(2) The permanent and seasonal population of the area.

(3) The appraised value of property subject to taxation in the area, the county's assessment ratio, and the ability of the proposed city to provide municipal services to its citizens.

(4) The probable effect of the incorporation on existing cities and towns.

(5) The extent to which the area is already developed for urban purposes. The Board may inquire into and give consideration to any other matters that it believes to have a bearing on the issues before it.

Sec. 6. The Board shall enter an order incorporating the area if, upon the information and evidence it receives, it finds:

(1) That incorporation of the area is necessary or expedient and in the public interest.

(2) That the area has a permanent resident population of at least 500 or a seasonal population of at least 1,000.

(3) That the appraised value of property subject to taxation by the city will be sufficient to enable it to provide appropriate municipal services to its citizens.

(4) If any portion of the corporate limits is less than three miles from the corporate limits of another city or town qualified under G.S. 136-41.2 to receive gasoline tax allocations, that the governing board of the existing city or town has expressed no objection to the incorporation.

(5) That at least 60% of the area within the proposed city is already developed for residential, commercial, industrial, institutional, or governmental uses, and that the remaining area is not separated from the developed area by natural barriers to urban growth.

In making the findings required by this section, the Board may call upon the Division of Community Planning of the Department of Local Affairs for technical assistance.

Sec. 7. The Board may make its order of incorporation effective on such date as it may prescribe, or it may make the order effective only upon approval by the qualified voters residing in the area. The Board shall make its order effective only upon voter approval upon receiving a petition to this effect signed by a number of qualified voters resident in the area equal to at least 25% of those who would be eligible to vote in its municipal elections, as certified by the appropriate county board of elections. An incorporation referendum held under this section shall be determined by a majority of those who participate therein. The Board shall determine the sufficiency of the petition and its determination and the board of elections' certification of the number of qualified voters in the area shall be conclusive.

Sec. 8. Upon approving an order of incorporation, the Board shall prepare and issue a charter for the city. The charter shall specify (i) the corporate limits, (ii) the name of the city, (iii) the composition and mode of election of the governing body within the option forms set out in G.S. 160-291, (iv) the names of three qualified voters of the area who shall serve as the city governing body until their successors are elected and qualified in accordance with the charter, and (v) the date of the first regular municipal election, which may be held in conjunction with the incorporation referendum if one is held. In issuing the charter, the Board shall consider but shall not be bound by recommendations set out in the incorporation petition and testimony received at the public hearing. The charter shall be filed in the office of the Secretary of State on or before its effective date.

Sec. 9. Cities incorporated pursuant to this act have all of the powers conferred by law on cities and towns generally.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1971.