

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 714
SENATE BILL 1471

AN ACT TO PROVIDE AN EXPEDITED PROCEDURE FOR CREATION OF COUNTY WATER AND SEWER DISTRICTS AFTER FAILURE OF LOW-PRESSURE PIPE SEWER SYSTEMS, TO CLARIFY THE POWERS OF COUNTY WATER AND SEWER DISTRICTS, AND CONCERNING THE APPLICATION DATES FOR CLEAN WATER BOND LOANS AND GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-86 is amended by adding a new subsection to read:

"(b1) Before creating such a district, the board of commissioners shall hold a public hearing. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall set forth a description of the territory to be included within the proposed district. The notice shall be published once in a newspaper that circulates in the proposed district and in addition shall be posted in at least three public places in the district. The notice shall be posted and published not more than 30 nor less than 14 days before the hearing. The newspaper notice and the public hearing may cover more than one district covered by this subsection.

This subsection applies only when the local Health Director or the State Health Director has certified that there is a present or imminent serious public health hazard caused by the failure of a low-pressure pipe sewer system within the area of the proposed district, and in such case the board of commissioners may proceed either under subsection (a) of this section or under this subsection."

Sec. 2. G.S. 162A-87(b) reads as rewritten:

"(b) Upon adoption of a resolution creating a county water and sewer district, the board of commissioners shall cause the resolution to be published once in each of two successive weeks in the newspaper in which the notices of the hearing were published. In addition, the commissioners shall cause to be published with the resolution a notice in substantially the following form:

"The foregoing resolution was adopted by the County Board of Commissioners on and was first published on

Any action or proceeding questioning the validity of this resolution or the creation of the Water and Sewer District of County or the inclusion in the district of any of the territory described in the resolution must be commenced within 30 days after the first publication of the resolution.

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Clerk,.....County
Board of Commissioners'

Any action or proceeding in any court to set aside a resolution creating a county water and sewer district, or questioning the validity of such a resolution, the creation of such a district, or the inclusion in such a district of any of the territory described in the resolution creating the district must be commenced within 30 days after the first publication of the resolution and notice. After the expiration of this period of limitation, no right of action or defense founded upon the invalidity of the resolution, the creation of the district, or the inclusion of any territory in the district may be asserted, nor may the validity of the resolution, the creation of the district, or the inclusion of the territory be open to question in any court upon any ground whatever, except in an action or proceeding commenced within that period.

Notwithstanding any other provision of this section, in the case of any county water and sewer districts created under G.S. 162A-86(b1):

- (1) A resolution may cover the creation of more than one district;
- (2) The board of commissioners shall cause the resolution to be published once in the newspaper in which the notice of the hearing was published; and
- (3) References in this subsection to '30 days' are instead '21 days'."

Sec. 3. Article 6 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-87.1A. Initial boundaries of district.

(a) The initial boundaries of a district may exclude areas contained solely within the external boundaries of the district.

(b) The initial boundaries of a district may include noncontiguous portions, as long as the closest distance from a noncontiguous piece to the part of the district containing the greatest area does not exceed one mile.

(c) This section does not invalidate any district created prior to the effective date of this section."

Sec. 4. G.S. 162A-87.2 reads as rewritten:

"§ 162A-87.2. Abolition of water and sewer districts.

(a) Upon finding that there is no longer a need for a water and sewer district and that there are no outstanding bonds or notes issued to finance projects in the district, the board of commissioners may, by resolution, abolish that district. The board of commissioners shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board of commissioners.

(b) If the:

- (1) Terms of any contract between a county water and sewer district and a city provide that upon certain conditions, all the property of the district is conveyed to that city; and

(2) District has at the time of abolition no existing bonds or notes issued as authorized by G.S. 162A-90 to finance projects in the district, then such contract may also provide that no earlier than such conveyance the district may be abolished by action of the governing board of the city. If the district has any other indebtedness, a contract providing for conveyance of all of the assets of a district to a city must provide for assumption of such other indebtedness by the city. If the district is owed any assessments, then the right to collect such assessments becomes that of the city. The governing board of the city shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year of the district following passage of the resolution, as determined by the governing board. This subsection applies only to a county water and sewer district created under G.S. 162A-86(b1).

(c) If the:

- (1) Terms of any contract between a county water and sewer district and a private person provide that upon certain conditions, all the property of the district is conveyed to that private person; and
- (2) District has at the time of abolition no existing bonds or notes issued as authorized by G.S. 162A-90 to finance projects in the district,

such contract may also provide that no earlier than such conveyance the district may be abolished by action of the Utilities Commission. If the district has any other indebtedness, a contract providing for conveyance of all of the assets of a district to a private person must provide for assumption of such other indebtedness by the private person. If the district is owed any assessments, then the private person may collect the assessment under the same procedures as if it was the district. The Utilities Commission shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year of the district following passage of the resolution, as determined by the Utilities Commission. This subsection applies only to a county water and sewer district created under G.S. 162A-86(b1).

(d) Any resolution of abolition adopted under this section on or after the effective date of this section shall be filed with the Secretary of State."

Sec. 5. Article 6 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-88.1. Contracts with private entities.

A county water and sewer district may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county water and sewer district is authorized by law to engage in."

Sec. 6. G.S. 160A-36 reads as rewritten:

"§ 160A-36. Character of area to be annexed.

(a) A municipal governing board may extend the municipal corporate limits to include any area which meets the general standards of subsection (b), and which meets the requirements of subsection (c).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is ~~begun~~ begun, except if the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any noncontiguous pieces of the district as long as the part of the district with the greatest land area is adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) The area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size. An area developed for urban purposes is also the entire area of any county water and sewer district created under G.S. 162A-86(b1), but this sentence only applies to annexation by a municipality if that:

- (1) Municipality has provided in a contract with that district that the area is developed for urban purposes; and
- (2) 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 sentence 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.

(d) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and may use streets as boundaries. Some or all of the boundaries of a county water and sewer district may also be used when the entire district not already within the corporate limits of a municipality is being annexed.

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

Sec. 7. G.S. 160A-48 reads as rewritten:

"§ 160A-48. Character of area to be annexed.

- (a) A municipal governing board may extend the municipal corporate limits to include any area
- (1) Which meets the general standards of subsection (b), and
 - (2) Every part of which meets the requirements of either subsection (c) or subsection (d).
- (b) The total area to be annexed must meet the following standards:
- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is ~~begun~~ begun, except if the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any noncontiguous pieces of the district as long as the part of the district with the greatest land area is adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
 - (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
 - (3) No part of the area shall be included within the boundary of another incorporated municipality.
- (c) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:
- (1) Has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
 - (2) Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty-five percent (65%) of the total number of lots and tracts are one acre or less in size; or
 - (3) Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in ~~size~~ size; or
 - (4) Is the entire area of any county water and sewer district created under G.S. 162A-86(b1), but this subdivision 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 subdivision 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.

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

- (1) Lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services and/or water and/or sewer lines through such sparsely developed area; or
- (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (c).

The purpose of this subsection is to permit municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes and where necessary to include areas which at the time of annexation are not yet developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

(e) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and may use streets as boundaries. Some or all of the boundaries of a county water and sewer district may also be used when the entire district not already within the corporate limits of a municipality is being annexed.

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

Sec. 8. G.S. 159G-10 is amended by adding a new subsection to read:

"(a1) When the State Health Director has certified that there is a present or imminent serious public health hazard on account of a failure of a low-pressure pipe sewer system, and the county water and sewer district, water and sewer authority, or county in which the failed system is located applies for funds from any or all of the High-Unit Cost Wastewater Account, the General Wastewater Revolving Loan and Grant Account, or the Emergency Wastewater Revolving Loan Account, the Environmental Management Commission may establish a special period for consideration of such applications outside the semiannual period provided by subsection (a) of this section. In such case:

- (1) The certification of the State Health Director provided for by this subsection satisfies the requirements of G.S. 150B-21.1(a)(1) for adoption of temporary rules;

- (2) The Environmental Management Commission need not adopt permanent rules;
- (3) The Environmental Management Commission, notwithstanding G.S. 150B-21.1(d) may provide that the temporary rules become effective upon adoption;
- (4) The Environmental Management Commission may establish priorities for such loans or grants, or both, notwithstanding G.S. 159G-10; and
- (5) The provisions of G.S. 159G-8(b) do not apply, unless the project is a major project in accordance with the minimum criteria rule as defined in G.S. 113A-9(6), although nothing in this subsection limits the ability of the Environmental Management Commission by temporary rule to require such environmental information as it deems appropriate.

Any temporary rules allowed by this subsection may be adopted prior to the receipt of the application for the grant or loan."

Sec. 9. This act is effective upon ratification. Section 8 of this act expires January 1, 1995, and is only effective with respect to applications for grants and loans received on or before December 31, 1994.

In the General Assembly read three times and ratified this the 7th day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives