

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1082\*

Short Title: Annexation Changes/Larger Cities.

(Public)

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Sponsors: Representatives Ellis; Allred, Brawley, Cansler, Justus, Linney, McComas, Preston, Pulley, J. Robinson, Sexton, and Sherrill.

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Referred to: Finance.

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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 before~~  
33 ~~adoption of the annexation ordinance,~~ provide for extension of  
34 water and sewer lines to the property or to a point on a public  
35 street or road right-of-way adjacent to the property according to  
36 the financial policies in effect in such municipality for extending  
37 water and sewer lines. The municipality shall provide in writing  
38 a notice to each owner of an occupied dwelling unit or an  
39 operating commercial or industrial property of the owner's right  
40 to make this request on the provided form. If any such requests  
41 are timely made, the municipality shall at the time of adoption of  
42 the annexation ordinance amend its report and plan for services  
43 to reflect and accommodate such requests. If water, sewer, or

1                    paving services specified in the report for the area to be annexed  
2                    are not provided within two years of the effective date of the  
3                    annexation, the owner of property that has not received the water,  
4                    sewer, or paving service shall be reimbursed for all ad valorem  
5                    taxes paid to the municipality, and shall not be liable for future  
6                    ad valorem taxes until the services are provided.

7                    c.    If extension of major trunk water mains, sewer outfall lines,  
8                    sewer lines and water lines is necessary, set forth a proposed  
9                    timetable for construction of such mains, outfalls and lines as  
10                   soon as possible following the effective date of annexation. In  
11                   any event, the plans shall call for construction to be completed  
12                   within two years of the effective date of annexation.

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

15                   e.    Provide for paving all public roads within the area to be annexed,  
16                   which are both under the control of the city and which meet the  
17                   city standards for paving, within two years of the effective date  
18                   of the annexation.

19                   f.    Provide a specific statement as to how the city plans to provide  
20                   the required services.

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

37                   (5)   A detailed statement as to how the city classified each lot or tract in the  
38                   area to be annexed as to use and size. If a population standard was used  
39                   to qualify the area, the report shall state how the population estimate of  
40                   the area was determined.

41                   (6)   A statement notifying persons affected by the annexation of their right  
42                   to appeal under G.S. 160A-50.

1           (7) A statement showing how the proposed annexation will affect the  
2 county's financing and services. This statement shall include changes  
3 in county revenues: local sales taxes, shares of beverage taxes,  
4 inspection fees, real estate transfer taxes, hotel occupancy taxes, water  
5 and sewer revenues, solid waste revenues, and any district property tax  
6 revenues where the county board of commissioners levies the tax. The  
7 statement shall also include changes in county services: water, sewer,  
8 law enforcement, fire, parks and recreation, inspections, land-use  
9 regulation, animal control, solid waste collection and disposal, solid  
10 waste franchises, rescue services, and emergency medical services.  
11 This statement shall be delivered to the clerk of the board of county  
12 commissioners at least 60 days before the date of any public hearing on  
13 any annexation under this Part."

14           Sec. 2. G.S. 160A-48 reads as rewritten:

15 **"§ 160A-48. Character of area to be annexed.**

16           (a) A municipal governing board may extend the municipal corporate limits to  
17 include any area

18               (1) Which meets the general standards of subsection (b), and

19               (2) Every part of which meets the requirements of either subsection (c) or  
20 subsection (d).

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

22               (1) It must be adjacent or contiguous to the municipality's boundaries at the  
23 time the annexation proceeding is begun, except if the entire territory of  
24 a county water and sewer district created under G.S. 162A-86(b1) is  
25 being annexed, the annexation shall also include any noncontiguous  
26 pieces of the district as long as the part of the district with the greatest  
27 land area is adjacent or contiguous to the municipality's boundaries at  
28 the time the annexation proceeding is begun.

29               (2) At least one eighth of the aggregate external boundaries of the area must  
30 coincide with the municipal boundary.

31               (3) No part of the area shall be included within the boundary of another  
32 incorporated municipality.

33           (c) Part or all of the area to be annexed must be developed for urban purposes. An  
34 area developed for urban purposes is defined as any area which meets any one of the  
35 following standards:

36               (1) Has a total resident population equal to at least two persons for each  
37 acre of land included within its ~~boundaries;~~ boundaries, and with respect  
38 to any acreage in residential use has a total resident population of at  
39 least four persons per acre; or

40               (2) Has a total resident population equal to at least ~~one person~~ three persons  
41 for each acre of land included within its boundaries, and is subdivided  
42 into lots and tracts such that at least ~~sixty percent (60%)~~ seventy percent  
43 (70%) of the total acreage consists of lots and tracts ~~five~~ three acres or

1 less in size and such that at least sixty-five percent (65%) of the total  
2 number of lots and tracts are one acre or less in size; or

3 (3) Is so developed that at least sixty percent (60%) of the total number of  
4 lots and tracts in the area at the time of annexation are used for  
5 residential, commercial, industrial, institutional or governmental  
6 purposes, and is subdivided into lots and tracts such that at least sixty  
7 percent (60%) of the total acreage, not counting the acreage used at the  
8 time of annexation for commercial, industrial, governmental or  
9 institutional purposes, consists of lots and tracts ~~five~~three acres or less  
10 in size; or

11 (4) Is the entire area of any county water and sewer district created under  
12 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
13 municipality if that:

14 a. Municipality has provided in a contract with that district that the  
15 area is developed for urban purposes; and

16 b. Contract provides for the municipality to operate the sewer  
17 system of that county water and sewer district;

18 provided that the special categorization provided by this subdivision  
19 only applies if the municipality is annexing in one proceeding the entire  
20 territory of the district not already within the corporate limits of a  
21 municipality.

22 Any contiguous land in common ownership and common use shall be deemed to be  
23 one 'lot or tract' as the term is used in subdivision (2) or (3) of this subsection. An  
24 easement for public utility or railroad purposes may be classified as an industrial,  
25 commercial, or governmental use, as appropriate, but only as to the extent of the  
26 easement, and such classification does not extend to the remainder of the tract solely  
27 because of the easement.

28 For purposes of computing resident population density under this subsection, the  
29 acreage within streets and roads shall be included in determining the number of acres of  
30 land included within the boundaries of the area to be annexed. When an area being  
31 annexed under this Part includes streets or roads between developed lots, and the  
32 developed lots are also being annexed, the acreage within such streets or roads may not  
33 be excluded under subsection (d) of this section from any computation of resident  
34 population density under this subsection.

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

38 ~~(1) Lies between the municipal boundary and an area developed for urban~~  
39 ~~purposes so that the area developed for urban purposes is either not~~  
40 ~~adjacent to the municipal boundary or cannot be served by the~~  
41 ~~municipality without extending services and/or water and/or sewer lines~~  
42 ~~through such sparsely developed area; or~~

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

4           ~~The purpose of this subsection is to permit municipal governing boards to extend~~  
5           ~~corporate limits to include all nearby areas developed for urban purposes and where~~  
6           ~~necessary to include areas which at the time of annexation are not yet developed for~~  
7           ~~urban purposes but areas which constitute necessary land connections between the~~  
8           ~~municipality and areas developed for urban purposes or between two or more areas~~  
9           ~~developed for urban purposes. purposes. For purposes of this subsection, 'necessary land~~  
10           ~~connection' means an area which makes the area to be annexed contiguous to the city, and~~  
11           ~~does not exceed twenty-five percent (25%) of the total area to be annexed.~~

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

18           (f) The area of an abolished water and sewer district shall be considered to be a  
19           water and sewer district for the purpose of this section even after its abolition under G.S.  
20           162A-87.2(b)."

21           Sec. 3. G.S. 160A-49(j) is repealed.

22           Sec. 4. G.S. 160A-50 is amended by adding a new subsection to read:

23           "(l) Prior to filing an appeal under this section, a person eligible to appeal must  
24           first present a request to the Local Government Commission for an analysis of the  
25           municipal governing board's actions under this Part and have received the analysis.  
26           Filing of such request tolls any applicable deadlines under this Part until the analysis is  
27           delivered. The Local Government Commission shall deliver to the municipal governing  
28           board and the requester within 90 days of the request its analysis, and if it finds any  
29           defect in the procedure, it may remand the ordinance to the municipal governing board  
30           which may correct any defect."

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

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

36           Sec. 6. G.S. 160A-53(2) reads as rewritten:

37           "(2) 'Used for residential purposes' shall mean any lot or tract ~~five~~three acres  
38           or less in size on which is constructed a habitable dwelling unit."

39           Sec. 7. G.S. 160A-54 is repealed.

40           Sec. 8. This act becomes effective October 1, 1996. Section 5 of this act is  
41           effective on and after January 1, 1996.