

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 171

Short Title: Municipal Self-Annexations. (Local)

Sponsors: Representative L. Brown (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

February 24, 2011

A BILL TO BE ENTITLED

AN ACT TO RESTATE THAT A MUNICIPALITY HAS NO AUTHORITY TO PETITION
ITSELF FOR SELF-ANNEXATION OF PROPERTY IT DOES NOT OWN OR HAVE
ANY LEGAL INTEREST IN, SUCH AS STATE-MAINTAINED STREETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.7 reads as rewritten:

"§ 160A-58.7. Annexation of municipal property.

(a) The city council may initiate annexation of property not contiguous to the primary corporate limits and owned by the city by adopting a resolution stating its intent to annex the property, in lieu of filing a petition. The property must satisfy the requirements of G.S. 160A-58.1. The resolution shall contain an adequate description of the property and fix a date for a public hearing on the question of annexation. Notice of the public hearing shall be published once at least 10 days before the date of the hearing. At the hearing, any resident of the city may appear and be heard on the question of the desirability of the annexation. If the council finds that annexation is in the public interest, it may adopt an ordinance annexing the property. The ordinance may be made effective immediately or on any specified date within six months from the date of passage.

(b) A municipality has no authority to petition itself for annexation of property it does not own or have any legal interest in. For the purpose of this subsection, a municipality has no legal interest in a State-maintained street unless it owns the underlying fee and not just an easement."

SECTION 2. G.S. 160A-31 reads as rewritten:

"§ 160A-31. Annexation by petition.

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

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

DATE:

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

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

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



1 (c) Upon receipt of the petition, the municipal governing board shall cause the clerk of
2 the municipality to investigate the sufficiency thereof and to certify the result of his
3 investigation. Upon receipt of the certification, the municipal governing board shall fix a date
4 for a public hearing on the question of annexation, and shall cause notice of the public hearing
5 to be published once in a newspaper having general circulation in the municipality at least 10
6 days prior to the date of the public hearing; provided, if there be no such paper, the governing
7 board shall have notices posted in three or more public places within the area to be annexed and
8 three or more public places within the municipality.

9 (d) At the public hearing all persons owning property in the area to be annexed who
10 allege an error in the petition shall be given an opportunity to be heard, as well as residents of
11 the municipality who question the necessity for annexation. The governing board shall then
12 determine whether the petition meets the requirements of this section. Upon a finding that the
13 petition meets the requirements of this section, the governing board shall have authority to pass
14 an ordinance annexing the territory described in the petition. The governing board shall have
15 authority to make the annexing ordinance effective immediately or on any specified date within
16 six months from the date of passage of the ordinance.

17 (e) From and after the effective date of the annexation ordinance, the territory and its
18 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
19 such municipality and shall be entitled to the same privileges and benefits as other parts of such
20 municipality. Real and personal property in the newly annexed territory on the January 1
21 immediately preceding the beginning of the fiscal year in which the annexation becomes
22 effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of
23 annexation falls between June 1 and June 30, and the effective date of the privilege license tax
24 ordinance of the annexing municipality is June 1, then businesses in the area to be annexed
25 shall be liable for taxes imposed in such ordinance from and after the effective date of
26 annexation.

27 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the
28 petition is submitted, such area either abuts directly on the municipal boundary or is separated
29 from the municipal boundary by a street or street right-of-way, a creek or river, or the
30 right-of-way of a railroad or other public service corporation, lands owned by the municipality
31 or some other political subdivision, or lands owned by the State of North Carolina. In
32 describing the area to be annexed in the annexation ordinance, the municipal governing board
33 may include within the description any territory described in this subsection which separates
34 the municipal boundary from the area petitioning for annexation.

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

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

49 (i) A municipality has no authority to petition itself for annexation of property it does
50 not own or have any legal interest in. For the purpose of this subsection, a municipality has no

1 legal interest in a State-maintained street unless it owns the underlying fee and not just an
2 easement."

3 **SECTION 3.** This act is effective when it becomes law.