

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 424

State Government, Local Government, and Personnel Committee Substitute Adopted
3/27/97

House Committee Substitute Favorable 8/13/97
Fourth Edition Engrossed 8/25/97

Short Title: Wake Annexations/Lee Elections.

(Local)

Sponsors:

Referred to:

March 19, 1997

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE TOWNS OF APEX, FUQUAY-VARINA, KNIGHTDALE, RALEIGH, AND WAKE FOREST, TO PROVIDE STAGGERED TERMS FOR THE TOWN OF BROADWAY, TO PROVIDE THAT THE BOARD OF COMMISSIONERS OF LEE COUNTY SHALL CONSIST OF SEVEN MEMBERS ELECTED AT LARGE FOR FOUR-YEAR STAGGERED TERMS ON A NONPARTISAN BASIS AT THE TIME OF THE GENERAL ELECTION, AND TO CHANGE THE ANNEXATION LAWS.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 160A-58.1(b)(2) shall not apply to any property if:

(1) The property is within the Town's perimunicipal planning area, as delineated on the Perimunicipal Planning Areas Map, which has been approved by Wake County.

(2) The Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to

1 which a point on the proposed satellite corporate limits is closer, and
2 that agreement states that the parties have agreed to waive the
3 provisions of G.S. 160A-58.1(b)(2) as to any property that is within the
4 Town's Perimunicipal Planning Area and as more particularly described
5 in the agreement.

6 (b) This section applies only to the Towns of Apex, Fuquay-Varina, Knightdale,
7 Raleigh, and Wake Forest, but shall not apply to property in Chatham County.

8 Section 2. Section 3 of the Charter of the Town of Broadway, being Chapter
9 548 of the Session Laws of 1947 as amended by Chapter 789 of the Session Laws of
10 1949, reads as rewritten:

11 "Sec. 3. At the time of the holding of the next general election following ratification
12 of this Act, and ~~biennially~~ thereafter, there shall be elected in the Town of Broadway in
13 accordance with the provisions of Article 3 of Chapter 160 of the General Statutes of
14 North Carolina, as amended, the following officers: ~~A mayor, five town commissioners, and~~
15 ~~a town constable.~~ A mayor and five town commissioners. The mayor shall be elected for
16 a four-year term. In 1997, the three persons receiving the highest numbers of votes for
17 town commissioner are elected to four-year terms, and the two persons receiving the next
18 highest numbers of votes for town commissioner are elected to two-year terms. In 1999
19 and quadrennially thereafter, two town commissioners are elected to four-year terms. In
20 2001 and quadrennially thereafter, three town commissioners are elected to four-year
21 terms. The mayor and the five town commissioners so elected shall constitute the
22 governing body of the Town of Broadway, and such governing body may appoint such
23 other officers and employ such assistants as the governing body of the town may deem
24 necessary for the better governance of the town."

25 Section 3. (a) Effective with the 1998 election, the Board of Commissioners of
26 Lee County consists of seven members elected at large for four-year terms. In 1998 and
27 quadrennially thereafter, four commissioners shall be elected. In 2000 and quadrennially
28 thereafter, three commissioners shall be elected.

29 (b) Notwithstanding the provisions of Chapter 163 of the General Statutes, the
30 Board of Commissioners of Lee County shall be elected on a nonpartisan basis at the
31 time set by G.S. 163-1 for the general election in each even-numbered year as terms
32 expire. The election shall be conducted on a nonpartisan plurality basis, with the results
33 determined in accordance with G.S. 163-292. Candidates shall file notices of candidacy
34 not earlier than noon on the third Monday in June and not later than noon on the third
35 Friday in July. The names of the candidates shall be printed on the ballot without
36 reference to any party affiliations. Except as provided by this act, the election shall be
37 conducted in accordance with the applicable provisions of Chapter 163 of the General
38 Statutes.

39 (c) This section does not affect the terms of office of current members of the
40 Board of Commissioners of Lee County.

41 Section 4. G.S. 160A-38 is rewritten by adding a new subsection to read:

42 "(1) Any settlement reached by all parties in an appeal under this section may be
43 presented to the superior court in the county in which the municipality is located. If the

1 superior court, in its discretion, approves the settlement, it shall be binding on all parties
2 without the need for approval by the General Assembly."

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

4 "(m) Any settlement reached by all parties in an appeal under this section may be
5 presented to the superior court in the county in which the municipality is located. If the
6 superior court, in its discretion, approves the settlement, it shall be binding on all parties
7 without the need for approval by the General Assembly."

8 Section 6. G.S. 160A-47 reads as rewritten:

9 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

10 A municipality exercising authority under this Part shall make plans for the extension
11 of services to the area proposed to be annexed and shall, prior to the public hearing
12 provided for in G.S. 160A-49, prepare a report setting forth such plans to provide
13 services to such area. The report shall include:

14 (1) A map or maps of the municipality and adjacent territory to show the
15 following information:

16 a. The present and proposed boundaries of the municipality.

17 b. The present major trunk water mains and sewer interceptors and
18 outfalls, and the proposed extensions of such mains and outfalls
19 as required in subdivision (3) of this section. The water and
20 sewer map must bear the seal of a registered professional
21 engineer.

22 c. The general land use pattern in the area to be annexed.

23 (2) A statement showing that the area to be annexed meets the requirements
24 of G.S. 160A-48.

25 (3) A statement setting forth the plans of the municipality for extending to
26 the area to be annexed each major municipal service performed within
27 the municipality at the time of annexation. Specifically, such plans
28 shall:

29 a. Provide for extending police protection, fire protection, solid
30 waste collection and street maintenance services to the area to be
31 annexed on the date of annexation on substantially the same basis
32 and in the same manner as such services are provided within the
33 rest of the municipality prior to annexation. A contract with a
34 rural fire department to provide fire protection shall be an
35 acceptable method of providing fire protection. If a water
36 distribution system is not available in the area to be annexed, the
37 plans must call for reasonably effective fire protection services
38 until such time as waterlines are made available in such area
39 under existing municipal policies for the extension of waterlines.
40 A contract with a private firm to provide solid waste collection
41 services shall be an acceptable method of providing solid waste
42 collection services.

- 1 b. Provide for extension of major trunk water mains and sewer
2 outfall lines into the area to be annexed so that when such lines
3 are constructed, property owners in the area to be annexed will
4 be able to secure public water and sewer service, according to the
5 policies in effect in such municipality for extending water and
6 sewer lines to individual lots or subdivisions. If requested by the
7 owner of an occupied dwelling unit or an operating commercial
8 or industrial property in writing on a form provided by the
9 municipality, which form acknowledges that such extension or
10 extensions will be made according to the current financial
11 policies of the municipality for making such extensions, and if
12 such form is received by the city clerk not less than 30 days
13 before adoption of the annexation ordinance, provide for
14 extension of water and sewer lines to the property or to a point on
15 a public street or road right-of-way adjacent to the property
16 according to the financial policies in effect in such municipality
17 for extending water and sewer lines. If any such requests are
18 timely made, the municipality shall at the time of adoption of the
19 annexation ordinance amend its report and plan for services to
20 reflect and accommodate such requests.
- 21 c. If extension of major trunk water mains, sewer outfall lines,
22 sewer lines and water lines is necessary, set forth a proposed
23 timetable for construction of such mains, outfalls and lines as
24 soon as possible following the effective date of annexation. In
25 any event, the plans shall call for construction to be completed
26 within two years of the effective date of annexation.
- 27 d. Set forth the method under which the municipality plans to
28 finance extension of services into the area to be annexed.
- 29 e. Provide for street paving service on substantially the same basis
30 and in the same manner as that service is provided within the rest
31 of the municipality prior to the annexation.
- 32 f. Include a summary of city police, fire, solid waste, street
33 maintenance and paving, water and sewer services provided to
34 current city residents as of 90 days prior to the date set for the
35 public hearing.
- 36 (4) A statement of the impact of the annexation on any rural fire department
37 providing service in the area to be annexed and a statement of the
38 impact of the annexation on fire protection and fire insurance rates in
39 the area to be annexed, if the area where service is provided is in an
40 insurance district designated under G.S. 153A-233, a rural fire
41 protection district under Article 3A of Chapter 69 of the General
42 Statutes, or a fire service district under Article 16 of Chapter 153A of
43 the General Statutes. The rural fire department shall make available to

1 the city not later than 30 days following a written request from the city
2 all information in its possession or control, including but not limited to
3 operational, financial and budgetary information, necessary for
4 preparation of a statement of impact. The rural fire department forfeits
5 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a
6 good faith response within 45 days following receipt of the written
7 request for information from the city, provided that the city's written
8 request so states by specific reference to this section.

9 (5) If the lot or tract standard was used to qualify the area, the report shall
10 state the classification of each lot or tract in the area to be annexed as to
11 use and size. If a population standard was used to qualify the area, the
12 report shall state how the population estimate of the area was
13 determined.

14 (6) A clear and easily understandable statement notifying persons affected
15 by the annexation of their right to appeal under G.S. 160A-50, the right
16 to request water and sewer services under subdivision (3)b. of this
17 section, and the remedies under G.S. 160A-49(h) and (k) for failure of
18 the city to provide services.

19 (7) A statement showing how the proposed annexation will affect the city's
20 finances and services, including city revenue change estimates. This
21 statement shall be delivered to the clerk of the board of county
22 commissioners at least 30 days before the date of any public hearing on
23 any annexation under this Part."

24 Section 7. G.S. 160A-48(d) reads as rewritten:

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

28 (1) Lies between the municipal boundary and an area developed for urban
29 purposes so that the area developed for urban purposes is either not
30 adjacent to the municipal boundary or cannot be served by the
31 municipality without extending services and/or water and/or sewer lines
32 through such sparsely developed area; or

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

36 The purpose of this subsection is to permit municipal governing boards to extend
37 corporate limits to include all nearby areas developed for urban purposes and where
38 necessary to include areas which at the time of annexation are not yet developed for
39 urban purposes but which constitute necessary land connections between the municipality
40 and areas developed for urban purposes or between two or more areas developed for
41 urban purposes. For purposes of this subsection, 'necessary land connection' means an
42 area which does not exceed twenty-five percent (25%) of the total area to be annexed."

43 Section 8. G.S. 160A-49(b) reads as rewritten:

1 "(b) Notice of Public Hearing. – The notice of public hearing shall:

2 (1) Fix the date, hour and place of the public hearing.

3 (2) Describe clearly the boundaries of the area under consideration, and
4 include a legible map of the area.

5 (3) Include a clear and easily understandable statement notifying persons
6 affected by the annexation of their right to appeal under G.S. 160A-50,
7 the right to request water and sewer services under G.S. 160A-47(3)b.,
8 and the remedies under G.S. 160A-49(h) and (k) for failure of the city to
9 provide services.

10 ~~(3)~~(4) State that the report required in G.S. 160A-47 will be available at the
11 office of the municipal clerk at least 30 days prior to the date of the
12 public hearing.

13 Such notice shall be given by publication once a week for at least two successive
14 weeks prior to the date of the hearing in a newspaper having general circulation in the
15 municipality and, in addition thereto, if the area to be annexed lies in a county containing
16 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
17 general circulation in the area of proposed annexation. The period from the date of the
18 first publication to the date of the last publication, both dates inclusive, shall be not less
19 than eight days including Sundays, and the date of the last publication shall be not more
20 than seven days preceding the date of public hearing. If there be no such newspaper, the
21 municipality shall post the notice in at least five public places within the municipality and
22 at least five public places in the area to be annexed for 30 days prior to the date of public
23 hearing. In addition, notice shall be mailed at least four weeks prior to date of the
24 hearing by first class mail, postage prepaid to the owners as shown by the tax records of
25 the county of all freehold interests in real property located within the area to be annexed.
26 The person or persons mailing such notices shall certify to the governing board that fact,
27 and such certificate shall become a part of the record of the annexation proceeding and
28 shall be deemed conclusive in the absence of fraud. If the notice is returned to the city by
29 the postal service by the tenth day before the hearing, a copy of the notice shall be sent by
30 certified mail, return receipt requested, at least seven days before the hearing. Failure to
31 comply with the mailing requirements of this subsection shall not invalidate the
32 annexation unless it is shown that the requirements were not substantially complied with.
33 If the governing board by resolution finds that the tax records are not adequate to identify
34 the owners of some or all of the parcels of real property within the area it may in lieu of
35 the mail procedure as to those parcels where the owners could not be so identified, post
36 the notice at least 30 days prior to the date of public hearing on all buildings on such
37 parcels, and in at least five other places within the area to be annexed. In any case where
38 notices are placed on property, the person placing the notices shall certify that fact to the
39 governing board."

40 Section 9. G.S. 160A-49(d) reads as rewritten:

41 "(d) Public Hearing. – At the public hearing a representative of the municipality
42 shall first make an explanation of the report required in ~~G.S. 160A-47.~~ G.S. 160A-47,
43 including appeal rights as summarized in G.S. 160A-47(6). Following such explanation,

1 all persons resident or owning property in the territory described in the notice of public
2 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

3 Section 10. G.S. 160A-35 reads as rewritten:

4 **"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

5 A municipality exercising authority under this Part shall make plans for the extension
6 of services to the area proposed to be annexed and shall, prior to the public hearing
7 provided for in G.S. 160A-37, prepare a report setting forth such plans to provide
8 services to such area. The report shall include:

9 (1) A map or maps of the municipality and adjacent territory to show the
10 following information:

- 11 a. The present and proposed boundaries of the municipality.
12 b. The proposed extensions of water mains and sewer outfalls to
13 serve the annexed area, if such utilities are operated by the
14 municipality. The water and sewer map must bear the seal of a
15 registered professional engineer or a licensed surveyor.

16 (2) A statement showing that the area to be annexed meets the requirements
17 of G.S. 160A-36.

18 (3) A statement setting forth the plans of the municipality for extending to
19 the area to be annexed each major municipal service performed within
20 the municipality at the time of annexation. Specifically, such plans
21 shall:

- 22 a. Provide for extending police protection, fire protection, solid
23 waste collection and street maintenance services to the area to be
24 annexed on the date of annexation on substantially the same basis
25 and in the same manner as such services are provided within the
26 rest of the municipality prior to annexation. A contract with a
27 rural fire department to provide fire protection shall be an
28 acceptable method of providing fire protection. If a water
29 distribution system is not available in the area to be annexed, the
30 plans must call for reasonably effective fire protection services
31 until such time as waterlines are made available in such area
32 under existing municipal policies for the extension of waterlines.
33 A contract with a private firm to provide solid waste collection
34 services shall be an acceptable method of providing solid waste
35 collection services.

- 36 b. Provide for extension of water mains and sewer lines into the
37 area to be annexed so that property owners in the area to be
38 annexed will be able to secure public water and sewer services
39 according to the policies in effect in such municipality for
40 extending water and sewer lines to individual lots or
41 subdivisions. If the municipality must, at its own expense,
42 extend water and/or sewer mains into the area to be annexed
43 before property owners in the area can, according to municipal

1 policies, make such connection to such lines, then the plans must
2 call for contracts to be let and construction to begin on such lines
3 within one year following the effective date of annexation.

4 c. Set forth the method under which the municipality plans to
5 finance extension of services into the area to be annexed.

6 d. Provide for street paving service on substantially the same basis
7 and in the same manner as that service is provided within the rest
8 of the municipality prior to the annexation.

9 e. Include a summary of city police, fire, solid waste, street
10 maintenance and paving, water and sewer services provided to
11 current city residents as of 90 days prior to the date set for the
12 public hearing.

13 (4) A statement of the impact of the annexation on any rural fire department
14 providing service in the area to be annexed and a statement of the
15 impact of the annexation on fire protection and fire insurance rates in
16 the area to be annexed, if the area where service is provided is in an
17 insurance district designated under G.S. 153A-233, a rural fire
18 protection district under Article 3A of Chapter 69 of the General
19 Statutes, or a fire service district under Article 16 of Chapter 153A of
20 the General Statutes. The rural fire department shall make available to
21 the city not later than 30 days following a written request from the city
22 all information in its possession or control, including but not limited to
23 operational, financial and budgetary information, necessary for
24 preparation of a statement of impact. The rural fire department forfeits
25 its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to make a
26 good faith response within 45 days following receipt of the written
27 request for information from the city, provided that the city's written
28 request so states by specific reference to this section.

29 (5) A statement containing the classification as to use and size of each lot or
30 tract in the area to be annexed.

31 (6) A clear and easily understandable statement notifying persons affected
32 by the annexation of their right to appeal under G.S. 160A-38 and the
33 remedy under G.S. 160A-37(h) for failure of the city to provide
34 services.

35 (7) A statement showing how the proposed annexation will affect the city's
36 finances and services, including city revenue change estimates. This
37 statement shall be delivered to the clerk of the board of county
38 commissioners at least 30 days before the date of any public hearing on
39 any annexation under this Part."

40 Section 11. G.S. 160A-37(b) reads as rewritten:

41 "(b) Notice of Public Hearing. – The notice of public hearing shall:

42 (1) Fix the date, hour and place of the public hearing.

- 1 (2) Describe clearly the boundaries of the area under consideration, and
2 include a legible map of the area.
- 3 (3) Include a clear and easily understandable statement notifying persons
4 affected by the annexation of their right to appeal under G.S. 160A-38
5 and the remedy under G.S. 160A-37(h) for failure of the city to provide
6 services.
- 7 (3)(4) State that the report required in G.S. 160A-35 will be available at the
8 office of the municipal clerk at least 30 days prior to the date of the
9 public hearing.

10 Such notice shall be given by publication once a week for at least two successive
11 weeks prior to the date of the hearing in a newspaper having general circulation in the
12 municipality and, in addition thereto, if the area to be annexed lies in a county containing
13 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
14 general circulation in the area of proposed annexation. The period from the date of the
15 first publication to the date of the last publication, both dates inclusive, shall be not less
16 than eight days including Sundays, and the date of the last publication shall be not more
17 than seven days preceding the date of public hearing. If there be no such newspaper, the
18 municipality shall post the notice in at least five public places within the municipality and
19 at least five public places in the area to be annexed for 30 days prior to the date of public
20 hearing. In addition, notice shall be mailed at least four weeks prior to date of the hearing
21 by first class mail, postage prepaid to the owners as shown by the tax records of the
22 county of all freehold interests in real property located within the area to be annexed. The
23 person or persons mailing such notices shall certify to the governing board that fact, and
24 such certificate shall become a part of the record of the annexation proceeding and shall
25 be deemed conclusive in the absence of fraud. If the notice is returned to the city by the
26 postal service by the tenth day before the hearing, a copy of the notice shall be sent by
27 certified mail, return receipt requested, at least seven days before the hearing. Failure to
28 comply with the mailing requirement of this subsection shall not invalidate the
29 annexation unless it is shown that the requirements were not substantially complied with.

30 If the governing board by resolution finds that the tax records are not adequate to
31 identify the owners of some or all of the parcels of real property within the area it may in
32 lieu of the mail procedure as to those parcels where the owners could not be so identified,
33 post the notice at least 30 days prior to the date of public hearing on all buildings on such
34 parcels, and in at least five other places within the area to be annexed. In any case where
35 notices are placed on property, the person placing the notice shall certify that fact to the
36 governing board."

37 Section 12. G.S. 160A-37(d) reads as rewritten:

38 "(d) Public Hearing. – At the public hearing a representative of the municipality
39 shall first make an explanation of the report required in ~~G.S. 160A-35~~ G.S. 160A-35,
40 including appeal rights as summarized in G.S. 160A-35(6). Following such explanation,
41 all persons resident or owning property in the territory described in the notice of public
42 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

1 Section 13. Sections 6 through 12 of this act become effective December 1,
2 1997, and apply to annexations for which the resolution of intent is adopted on or after
3 that date. The remainder of this act is effective when it becomes law.