

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 525

Short Title: Annexation - LGC and Already Served Areas. (Public)

Sponsors: Representatives Luebke, Goforth (Primary Sponsors); Blackwood, Brown, Coates, Dollar, Justice, and Starnes.

Referred to: Rules, Calendar, and Operations of the House, if favorable, Judiciary II, if favorable, Finance.

March 11, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE LOCAL GOVERNMENT COMMISSION TO PROVIDE OVERSIGHT OF THE MUNICIPAL ANNEXATION PROCESS AND TO PROHIBIT INVOLUNTARY ANNEXATION INTO AN AREA CURRENTLY SERVED BY A CENTRAL WATER AND SEWER SYSTEM NOT OF THE ANNEXING MUNICIPALITY UNLESS AT LEAST ONE-HALF OF THE PROPERTY OWNERS CONSENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 5 of Article 4A of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-58.11. Local Government Commission oversight of annexation.**

The Local Government Commission shall provide oversight of annexation by all municipalities. In carrying out that responsibility, the Local Government Commission shall do at least all of the following:

- (1) Assess the fiscal feasibility of all proposed annexations.
- (2) Prohibit further annexation by any municipality that has not provided services as stated in the annexation ordinance of an area more than 12 months prior to the proposed annexation.
- (3) Abate all ad valorem property taxes levied on the newly annexed territory if the municipality has not provided services within five years of the effective date of the annexation ordinance."

**SECTION 2.** 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, 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.



- 1 (2) At least one eighth of the aggregate external boundaries of the area must  
2 coincide with the municipal boundary.
- 3 (3) No part of the area shall be included within the boundary of another  
4 incorporated municipality.
- 5 (4) At least fifty percent (50%) of the property owners must consent to the  
6 annexation if the area is served by a central water and sewer system operated  
7 by an entity other than the annexing municipality. The annexing  
8 municipality must obtain written documentation of the agreement of the  
9 property owners, dated within 12 months of the annexation ordinance  
10 effective date.

11 (c) The area to be annexed must be developed for urban purposes at the time of  
12 approval of the report provided for in G.S. 160A-35. For purposes of this section, a lot or tract  
13 shall not be considered in use for a commercial, industrial, institutional, or governmental  
14 purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or  
15 insubstantial basis in relation to the size and character of the lot or tract. For purposes of this  
16 section, acreage in use for commercial, industrial, institutional, or governmental purposes shall  
17 include acreage actually occupied by buildings or other man-made structures together with all  
18 areas that are reasonably necessary and appurtenant to such facilities for purposes of parking,  
19 storage, ingress and egress, utilities, buffering, and other ancillary services and facilities. Area  
20 of streets and street rights-of-way shall not be used to determine total acreage under this  
21 section. An area developed for urban purposes is defined as:

- 22 (1) Any area which is so developed that at least sixty percent (60%) of the total  
23 number of lots and tracts in the area at the time of annexation are used for  
24 residential, commercial, industrial, institutional or governmental purposes,  
25 and is subdivided into lots and tracts such that at least sixty percent (60%) of  
26 the total acreage, not counting the acreage used at the time of annexation for  
27 commercial, industrial, governmental or institutional purposes, consists of  
28 lots and tracts three acres or less in size.
- 29 (2) An area so developed that, at the time of the approval of the annexation  
30 report, all tracts in the area to be annexed are used for commercial,  
31 industrial, governmental, or institutional purposes.
- 32 (3) The entire area of any county water and sewer district created under  
33 G.S. 162A-86(b1), but this subsection only applies to annexation by a  
34 municipality if that:
- 35 a. Municipality has provided in a contract with that district that the area  
36 is developed for urban purposes; and
- 37 b. Contract provides for the municipality to operate the sewer system of  
38 that county water and sewer district;
- 39 provided that the special categorization provided by this subsection only  
40 applies if the municipality is annexing in one proceeding the entire territory  
41 of the district not already within the corporate limits of a municipality.

42 (d) In fixing new municipal boundaries, a municipal governing board shall use recorded  
43 property lines and streets as boundaries. Some or all of the boundaries of a county water and  
44 sewer district may also be used when the entire district not already within the corporate limits  
45 of a municipality is being annexed.

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

49 **SECTION 3.** G.S. 160A-48 reads as rewritten:

50 **"§ 160A-48. Character of area to be annexed.**

- 1 (a) A municipal governing board may extend the municipal corporate limits to include  
2 any area
- 3 (1) Which meets the general standards of subsection (b), and  
4 (2) Every part of which meets the requirements of either subsection (c) or  
5 subsection (d).
- 6 (b) The total area to be annexed must meet the following standards:
- 7 (1) It must be adjacent or contiguous to the municipality's boundaries at the time  
8 the annexation proceeding is begun, except if the entire territory of a county  
9 water and sewer district created under G.S. 162A-86(b1) is being annexed,  
10 the annexation shall also include any noncontiguous pieces of the district as  
11 long as the part of the district with the greatest land area is adjacent or  
12 contiguous to the municipality's boundaries at the time the annexation  
13 proceeding is begun.
- 14 (2) At least one eighth of the aggregate external boundaries of the area must  
15 coincide with the municipal boundary.
- 16 (3) No part of the area shall be included within the boundary of another  
17 incorporated municipality.
- 18 (4) At least fifty percent (50%) of the property owners must consent to the  
19 annexation if the area is served by a central water and sewer system operated  
20 by an entity other than the annexing municipality. The annexing  
21 municipality must obtain written documentation of the agreement of the  
22 property owners, dated within 12 months of the annexation ordinance  
23 effective date.
- 24 (c) Part or all of the area to be annexed must be developed for urban purposes at the  
25 time of approval of the report provided for in G.S. 160A-47. Area of streets and street  
26 rights-of-way shall not be used to determine total acreage under this section. An area developed  
27 for urban purposes is defined as any area which meets any one of the following standards:
- 28 (1) Has a total resident population equal to at least two and three-tenths persons  
29 for each acre of land included within its boundaries; or
- 30 (2) Has a total resident population equal to at least one person for each acre of  
31 land included within its boundaries, and is subdivided into lots and tracts  
32 such that at least sixty percent (60%) of the total acreage consists of lots and  
33 tracts three acres or less in size and such that at least sixty-five percent  
34 (65%) of the total number of lots and tracts are one acre or less in size; or
- 35 (3) Is so developed that at least sixty percent (60%) of the total number of lots  
36 and tracts in the area at the time of annexation are used for residential,  
37 commercial, industrial, institutional or governmental purposes, and is  
38 subdivided into lots and tracts such that at least sixty percent (60%) of the  
39 total acreage, not counting the acreage used at the time of annexation for  
40 commercial, industrial, governmental or institutional purposes, consists of  
41 lots and tracts three acres or less in size. For purposes of this section, a lot or  
42 tract shall not be considered in use for a commercial, industrial, institutional,  
43 or governmental purpose if the lot or tract is used only temporarily,  
44 occasionally, or on an incidental or insubstantial basis in relation to the size  
45 and character of the lot or tract. For purposes of this section, acreage in use  
46 for commercial, industrial, institutional, or governmental purposes shall  
47 include acreage actually occupied by buildings or other man-made structures  
48 together with all areas that are reasonably necessary and appurtenant to such  
49 facilities for purposes of parking, storage, ingress and egress, utilities,  
50 buffering, and other ancillary services and facilities; or

- 1 (4) Is the entire area of any county water and sewer district created under  
2 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
3 municipality if that:  
4 a. Municipality has provided in a contract with that district that the area  
5 is developed for urban purposes; and  
6 b. Contract provides for the municipality to operate the sewer system of  
7 that county water and sewer district;  
8 provided that the special categorization provided by this subdivision only  
9 applies if the municipality is annexing in one proceeding the entire territory  
10 of the district not already within the corporate limits of a municipality; or  
11 (5) Is so developed that, at the time of the approval of the annexation report, all  
12 tracts in the area to be annexed are used for commercial, industrial,  
13 governmental, or institutional purposes.

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

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

25 The purpose of this subsection is to permit municipal governing boards to extend corporate  
26 limits to include all nearby areas developed for urban purposes and where necessary to include  
27 areas which at the time of annexation are not yet developed for urban purposes but which  
28 constitute necessary land connections between the municipality and areas developed for urban  
29 purposes or between two or more areas developed for urban purposes. For purposes of this  
30 subsection, "necessary land connection" means an area that does not exceed twenty-five percent  
31 (25%) of the total area to be annexed.

32 (e) In fixing new municipal boundaries, a municipal governing board shall use recorded  
33 property lines and streets as boundaries. Some or all of the boundaries of a county water and  
34 sewer district may also be used when the entire district not already within the corporate limits  
35 of a municipality is being annexed.

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

39 **SECTION 4.** This act becomes effective October 1, 2009, and applies to  
40 annexations on or after that date.