

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

1

HOUSE BILL 1867*

Short Title: Annexing Low-Income Areas. (Public)

Sponsors: Representatives Bryant, Pierce, Jones (Primary Sponsors); Dollar, Faison, Gill, and Hughes.

Referred to: Judiciary II, if favorable, Finance.

May 20, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND REQUIREMENTS FOR VOLUNTARY AND INVOLUNTARY
3 ANNEXATION AS THEY RELATE TO LOW-INCOME COMMUNITIES, AS
4 RECOMMENDED BY THE JOINT LEGISLATIVE STUDY COMMISSION ON
5 POVERTY REDUCTION AND ECONOMIC RECOVERY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 160A-31 reads as rewritten:

8 "**§ 160A-31. Annexation by petition.**

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

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

14 DATE:

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

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

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

21 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty
22 percent (50%) or more of the households in an area petitioning for annexation pursuant to this
23 section have incomes that are two hundred percent (200%) or less than the most recently
24 published United States Census Bureau poverty thresholds, the governing board of any
25 municipality shall annex by ordinance any area one-eighth of the aggregate external boundaries
26 of which are contiguous to its boundaries upon presentation to the governing board of a petition
27 signed by the owners of at least seventy-five percent (75%) of the parcels of real property in
28 that area.

29 (b2) The petition under subsection (b1) of this section shall be prepared in substantially
30 the following form:

31 DATE:

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

34 1. We the undersigned owners of real property believe that the area described
35 in paragraph 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that



1 the area described in paragraph 2 below be annexed to the (City or Town) of

2 _____.

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

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

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

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

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

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

46 (h) A city council which receives a petition for annexation under this section may by
47 ordinance require that the petitioners file a signed statement declaring whether or not vested
48 rights with respect to the properties subject to the petition have been established under
49 G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been
50 established, the city may require petitioners to provide proof of such rights. A statement which

1 declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1
2 shall be binding on the landowner and any such vested right shall be terminated.

3 (i) For purposes of determining whether the percentage of households in the area
4 petitioning for annexation meets the poverty thresholds under subsection (b1) of this section,
5 the petitioners shall submit to the municipal governing board any reasonable evidence that
6 demonstrates the area in fact meets the income requirements of that subsection. The evidence
7 presented may include data from the most recent federal decennial census, other official census
8 documents, signed affidavits by at least one adult resident of the household attesting to the
9 household size and income level, or any other documentation verifying the incomes for a
10 majority of the households within the petitioning area. Petitioners may select to submit name,
11 address, and social security number to the clerk, who shall in turn submit the information to the
12 Department of Revenue. Such information shall be kept confidential and is not a public record.
13 The Department shall provide the municipality with a summary report of income for
14 households in the petitioning area. Information for the report shall be gleaned from income tax
15 returns, but the report submitted to the municipality shall not identify individuals or
16 households."

17 **SECTION 2.(a)** G.S. 160A-36(a) reads as rewritten:

18 "(a) A municipal governing board may extend the municipal corporate limits to include
19 any area which meets the general standards of subsection (b), and which meets the
20 requirements of subsection ~~(e)-(c)~~, or that is completely surrounded by the municipality's
21 primary corporate limits."

22 **SECTION 2.(b)** G.S. 160A-48(a) reads as rewritten:

23 "(a) A municipal governing board may extend the municipal corporate limits to include
24 any area that complies with all of the following:

- 25 (1) ~~Which meets the~~ The area meets the general standards of subsection ~~(b)~~,
26 ~~and(b) of this section.~~
27 (2) Every part of ~~which the area meets the requirements of either subsection (e)~~
28 ~~or subsection (d),~~ complies with all of the following:
29 a. Meets the requirements of subsection (c) of this section.
30 b. Meets the requirements of subsection (d) of this section.
31 c. Is completely surrounded by the municipality's primary corporate
32 limits."

33 **SECTION 3.** G.S. 143B-437.04(a) reads as rewritten:

34 "(a) The Department of Commerce shall adopt guidelines for the awarding of
35 Community Development Block Grants to ensure that:

- 36 (1) No local match is required for grants awarded for projects located in
37 counties that have one of the 25 highest rankings under G.S. 143B-437.08 or
38 counties that have a population of less than 50,000 and more than nineteen
39 percent (19%) of its population below the federal poverty level according to
40 the most recent federal decennial census.
41 (2) To the extent practicable, priority consideration for grants is given to
42 projects located in counties that have met the conditions of subdivision
43 (a)(1) of this section or in urban progress zones that have met the conditions
44 of subsection (b) of this section.
45 (3) Priority consideration is given to projects located in areas annexed by a
46 municipality under Article 4A of Chapter 160A of the General Statutes in
47 order to provide water or sewer services to low-income residents."

48 **SECTION 4.** This act becomes effective October 1, 2010, and applies to
49 annexations for which a resolution of intent has been adopted under Part 2 or Part 3 of Article
50 4A of Chapter 160A of the General Statutes on or after that date and to annexation for which a

1 petition has been received under Part 1 or Part 4 of Article 4A of Chapter 160A of the General
2 Statutes on or after that date.