

March 9, 2009

S 472. ANNEXATION CHANGES. Filed 3/9/09. TO PROVIDE PRIORITY POINTS IN AWARDING CERTAIN GRANTS FOR AREAS ANNEXED TO PROVIDE WATER OR SEWER SERVICE TO LOW-INCOME AREAS, TO AUTHORIZE THE ANNEXATION OF CONTIGUOUS DISTRESSED AREAS UPON PETITION OF SEVENTY-FIVE PERCENT OF REGISTERED HOUSEHOLDS, TO INCREASE THE THRESHOLD FOR THE LARGE-CITY ANNEXATION PROCEDURES TO TEN THOUSAND OR MORE IN POPULATION, TO PROHIBIT CITY-INITIATED ANNEXATION BY CITIES THAT DO NOT PROVIDE AT LEAST TWO MAJOR MUNICIPAL SERVICES, TO REQUIRE FIVE-YEAR FINANCIAL PROJECTIONS IN THE ANNEXATION REPORT, TO ALLOW FOR THE ANNEXATION OF AREAS COMPLETELY SURROUNDED BY THE PRIMARY MUNICIPAL BOUNDARIES, TO PROHIBIT THE USE OF STREETS AS SHOESTRING CONNECTIONS IN VOLUNTARY AND CITY-INITIATED ANNEXATIONS, TO ALLOW SMALL CITIES TO USE THE POPULATION DENSITY STANDARD IN DETERMINING DEVELOPMENT FOR URBAN PURPOSES, TO REQUIRE A RESOLUTION OF CONSIDERATION TO BEGIN THE CITY-INITIATED ANNEXATION PROCESS, TO REQUIRE ADDITIONAL INFORMATION IN THE NOTICE OF PUBLIC HEARING, TO REQUIRE THAT PUBLICATIONS OF NOTICE OCCUR ONE WEEK APART, TO REQUIRE DISTRIBUTION OF ADDITIONAL INFORMATION AT THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING, TO REQUIRE THAT CITY-INITIATED ANNEXATIONS BECOME EFFECTIVE ON THE JUNE 30 FOLLOWING ADOPTION OF THE ORDINANCE, TO ALLOW CITIES IN THE EVENT OF LITIGATION TO DELAY THE EFFECTIVE DATE OF ANNEXATION TO THE JUNE 30 FOLLOWING THE FINAL JUDGMENT, TO INCREASE THE TIME FOR CHALLENGING AN ANNEXATION TO SEVENTY-FIVE DAYS, TO REQUIRE A REPORT ON THE PROVISION OF SERVICES TO THE LOCAL GOVERNMENT COMMISSION, TO INCREASE THE TIME FOR PETITIONING THE LOCAL GOVERNMENT COMMISSION FOR TAX ABATEMENT TO ONE HUNDRED TWENTY DAYS, TO INCREASE TO THIRTY DAYS THE TIME FOR PROPERTY OWNERS TO REQUEST WATER AND SEWER EXTENSIONS TO INDIVIDUAL LOTS IN LARGE CITIES, TO REQUIRE LARGE CITIES TO BASE CALCULATIONS OF THE COST OF WATER AND SEWER EXTENSIONS UPON THE ASSUMPTION THAT ALL ELIGIBLE PROPERTY OWNERS WILL REQUEST EXTENSIONS TO THEIR INDIVIDUAL LOTS, TO REQUIRE LARGE CITIES TO PROVIDE ADDITIONAL INFORMATION REGARDING THE RIGHT TO REQUEST INDIVIDUAL WATER AND SEWER EXTENSIONS, TO MAKE CONFORMING CHANGES TO MUNICIPAL TAXATION PROVISIONS, TO CLARIFY THE ENFORCEABILITY OF CERTAIN ANNEXATION AGREEMENTS BETWEEN CITIES AND PROPERTY OWNERS, AND TO REQUIRE THAT PROPERTY OWNERS BE GIVEN THE OPTION OF PAYING WATER AND SEWER ASSESSMENTS PURSUANT TO A CITY-INITIATED ANNEXATION OVER TWENTY YEARS.

Amends GS 143B-437.04 to require that the Department of Commerce adopt guidelines for the awarding of Community Development Block Grants to ensure that *priority consideration is given to projects located in areas annexed by a municipality in order to provide water or sewer services to low-income residents*. Amends GS 159G-23 to add to the application criteria considered by the Division of Water Quality and Division of Environmental Health for a loan or grant from the Wastewater Reserve or Drinking Water Reserve that a project located in an area annexed by a municipality in order to provide water or sewer services to low-income residents has priority. Both statutes define *low-income residents* as those with a family income that is 50% or less of median family income.

Amends GS 160A-31 (Annexation by petition) to allow the governing board of any municipality to annex, by ordinance, any distressed area contiguous to its boundaries upon presentation of a petition signed by 75% of the resident households located within such area. Defines *distressed area* as an area in which a majority of the households to be annexed have incomes that are 50% or less of median family income.

Amends GS 160A-34 to grant authority to the governing board of any municipality with a population of less than 10,000 (was, 5,000) persons to extend the corporate limits of such municipality as set forth in this statute. Limits this grant of authority to municipalities that provide, at the time of the adoption of their resolution of intent, at least two of the four major municipal services listed in GS 160A-35(3)a. The service must be provided directly by the municipality,

provided by a joint agency or authority of which the municipality is a full participating member, or provided by contract between the municipality and a third party. Provides that, in the case of police protection provided by contract, the contract must establish a higher level of service than is otherwise provided in that area, such as a designated deputy or increased patrols. Amends GS 160A-35 to require, as a prerequisite to annexation, that the statement providing estimates on how the proposed annexation will affect the city's finances and services include projections for at least a five-year period beyond the first year that expenditures are to be made for the provision of city services to the annexed area, with accounting by revenue source and category of expenditure. Amends GS 160A-36 to allow the extension of the municipal corporate limits to include *any area that is completely surrounded by the municipality's primary corporate limits*. Also prohibits the use of a connecting corridor consisting solely of a public street or street right-of-way to establish contiguity to an outlying, noncontiguous area in order to meet the standard of having at least one-eighth of the aggregate external boundaries of the annexed area coincide with the municipal boundary. Includes an area with a total resident population equal to at least two and three-tenths persons for each acre of land included within its boundaries in the definition of *an area developed for urban purposes*.

Amends GS 160A-37 to reorganize and clarify provisions in the procedure for annexation related to the resolution of consideration and the resolution of intent. Requires that a notice of the adoption of the resolution of consideration be published once a week for two successive weeks, with each publication being on the same day of the week, in a newspaper of general circulation in the municipality. Prohibits the second publication from being more than 30 days after adoption of the resolution. Specifies information to be included in the notice. Eliminates the exception to requiring a resolution of consideration in the case of a resolution of intent and an annexation ordinance providing an effective date of annexation at least one year from the date of passage of the annexation ordinance. After adoption of the resolution of intent, requires that the notice of public hearing and the materials distributed at the public informational meeting and public hearing include a summary of the annexation process and time lines and a summary of available statutory remedies for contesting the annexation and the failure to provide services. Provides that each published notice prior to the informational hearing *be published on the same day of the week*. Removes requirements regarding the date of first publication to the date of last publication. Requires that the effective date of annexation be fixed as the next June 30 following the adoption of the ordinance (was, may be any date not less than 40 days nor more than 400 days from the date of passage of the ordinance). Removes provision describing real and personal property subject to municipal taxes on January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective and, instead, makes taxation of real and personal property subject to the provisions in GS 160A-58.10, effective upon the date of annexation. Requires that the city report to the Local Government Commission (Commission) as to whether police protection, fire protection, solid waste, or street maintenance services were provided in accordance with GS 160A-35(3)a. within 60 days after the effective date of annexation. Prohibits the report from being filed more than 30 days following the expiration of the 60-day period. Increases the time period for a property owner to petition the Commission for abatement of taxes due to the failure of the city to provide such services to 120 days (was, 90 days) after the expiration of the 60-day period. Makes technical and conforming changes.

Amends GS 160A-38 to increase the time period for a property owner to file a petition in superior court claiming that a municipal governing board failed to follow statutorily required procedures to 75 days (was, 60 days) following passage of an annexation ordinance. Allows a municipal governing board to adopt a resolution, prior to the date of annexation as set forth in a superior court final judgment, to set the annexation effective date for the next June 30 following the date of the final judgment. Makes a conforming and technical change.

Makes identical changes, related to annexations by a municipality having a population of *10,000 or more* persons, to GS 160A-46 (Authority to annex), GS 160A-47 (Prerequisites to annexation; ability to serve; report and plans), GS 160A-48 (Character of area to be annexed), GS 160A-49 (Procedure for annexation), and GS 160A-50 (Appeal).

Further amends GS 160A-47 to require, as a prerequisite of annexation, that the statement setting forth the method under which a municipality plans to finance extension of services into the proposed annexed area be based upon the assumption that all eligible property owners will

request extension of water and sewer lines to their individual lots. Increases the time to 30 days (was, five days) after the public hearing for an individual to file a request with the city clerk for an extension of water and sewer lines to a property within the area to be annexed.

Further amends GS 160A-49 to require that a form for a property owner to request water and sewer service be included in the notice of public hearing following a resolution of intent. Provides that the form state that a request for extending water and sewer lines does not waive the right to contest the annexation, but that the request will be binding if the annexation becomes effective. Specifies that the form must include information regarding policies on financial participation, time lines, and extension of services for properties that do not request an individual extension. Requires that, if a valid request was made for extension of a water or sewer line under GS 160A-47(3)b., the city report to the Commission as to whether the extension was completed within the two-year time period specified in the statute. Removes language providing for payment of taxes imposed by a privilege license tax ordinance depending on the effective date of the annexation. Instead, places this provision in GS 160A-58.10, which is further amended to make conforming and clarifying changes to provide for municipal taxation of specific types of annexed territory.

Amends the title of Part 6 of Article 4A of GS Chapter 160A to read *Annexation Agreements Between Municipalities* (was, *Annexation Agreements*).

Enacts a new Part 7 of Article 4A of GS Chapter 160A, entitled *Annexation Agreements With Property Owners*, to allow a city to enter into contracts under which the city agrees to extend water service, sewer service, or both, to specific property and in return the owner or owners agree to either or both of the following: (1) to petition the city for annexation of the property, pursuant to Part 1 or Part 2 of this Article, upon the city's request; and (2) to not join in an any appeal if the city adopts an ordinance to annex the property that is served by water or sewer under the contract pursuant to Part 2 or Part 3 of this Article. Provides that the contract is enforceable against the city and against the person or persons who signed it and their heirs, assigns, and successors in interest if the contract specifies that it runs with the land and is recorded in the county register of deeds where the property is located. Allows the city to enforce the contract through an action for specific performance as long as the city continues to provide the contracted utility service to the property.

Amends GS 160A-232 to allow the owners of assessed property, for water and sewer systems pursuant to an annexation, to pay the assessment, within 30 days after publication of the notice confirming the assessment roll, either in cash or in a maximum of 20 annual installments, as may have been determined by the council in the resolution directing the project resulting in assessment. Authorizes that the council may provide that (1) the first installment with interest is due on the date when property taxes are due, and that one subsequent installment and interest is due on the same date in each successive year until paid in full or (2) the first installment with interest is due 60 days after the date the assessment roll is confirmed, and one subsequent installment and interest is due on the same day of the month in each successive year until the assessment is paid in full.

Specifies that the act does not apply to any annexation for which a resolution of intent was adopted prior to the date the act becomes law.

Intro. by Rand.

GS 143B, 159G, 160A