

March 9, 2009

S 494. ANNEXATION/MEANINGFUL SERVICES AND OVERSIGHT. Filed 3/9/09. *TO AMEND THE ANNEXATION LAWS TO REQUIRE MEANINGFUL SERVICES AND MEANINGFUL OVERSIGHT.*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Shaw.

GS 160A

March 10, 2009

S 494. ANNEXATION/MEANINGFUL SERVICES AND OVERSIGHT. Filed 3/9/09. *TO AMEND THE ANNEXATION LAWS TO REQUIRE MEANINGFUL SERVICES AND MEANINGFUL OVERSIGHT.*

Repeals Part 2 of Article 4A of GS Chapter 160A (Annexation by Cities of Less than 5,000). Amends Part 3 of Article 4A of GS Chapter 160A to provide that it applies to annexation by all cities, regardless of population size (was, Annexation by Cities of More than 5,000). Amends GS 160A-53 to add the following definitions: (1) *meaningful services* to mean central water and sewer service, police protection, or fire protection and (2) *area in need of meaningful services* to mean an area in which: (a) a majority of property owners have existing water service, sewer or septic service, police protection, or fire protection that is inadequate and clearly poses a threat to the health and safety of the area and (b) the property owners could not reasonably address the threat themselves through private or public means. Inserts *meaningful services*, where applicable, to describe services extended to annexed areas as required throughout Part 3.

Amends GS 160A-45 to clarify that it is state policy that city-initiated annexation of unincorporated land has significant effects on the land use and finances of county government and landowners and therefore requires review and approval by all parties affected (was, that the legislative standards governing annexation by larger municipalities must take into account that there is greater difficulty in expanding municipal utility systems and other service facilities to scattered development). Amends GS 160A-46 to authorize the governing board of any municipality to extend its corporate limits *to include contiguous areas in need of meaningful urban services which cannot be resolved without extension of municipal services* under the procedure set forth in this Part. Amends GS 160A-47 to require that, as a prerequisite to annexation, a municipality (1) show that previous annexations are successfully completed, (2) make plans to extend meaningful services to the area in need, and (3) deliver the report before the public hearing describing these plans to the county board of commissioners for the territory being considered for annexation. Adds that the map of the municipality and adjacent area required to be included in the plan must show, in addition to present and proposed major trunk water mains and sewer interceptors and outfalls, the present and proposed sewer lines and waterlines. Adds that the statement setting forth the municipality's plans for extending each major municipal service performed at the time of annexation must also provide for water and sewer services and removes that all the services are to be provided on *substantially* the same basis. Prohibits a contract with the sheriff for additional police patrol by the sheriff's department from qualifying as provision of police protection. Clarifies that a contract with a rural fire department to provide fire protection is *only acceptable until such time as waterlines are made available*. Removes that if a water distribution system is not available that the plans call for reasonably effective fire protection until such time as waterlines are made available. Clarifies that a contract with a private firm to provide solid waste collection services is acceptable *only if such a contract is the method of solid waste collection services throughout that municipality at the time of the resolution of consideration to annex*. Requires the statement to also include the provision for extension of major trunk water mains and sewer outfall lines and *all necessary sewer lines and waterlines* into the annexed area so that property owners will be able to secure public water and sewer service. Eliminates (1) that this provision specifically applies to individual lots or subdivisions and (2) the procedure for a property owner to request such an extension within five days after the public hearing. Modifies the exception to extending sewer service, which allows maintenance and repair of septic systems until a sewer system can be provided, to circumstances in which installation of sewer is not physically (was, economically) feasible *or would be environmentally damaging* due to the unique topography *or environmental qualities* of the area. Extends the time in which a city may complete

construction of extended services to three (was, two) years of the effective date of annexation. Prohibits a contract with a county authority or other third party water and/or sewer authority from qualifying as the provision of meaningful services.

Amends GS 160A-48 (Character of area to be annexed) to require that at least one-third (was, one-eighth) of the aggregate external boundaries coincide with the municipal boundary and that it be an area in need of meaningful service. Modifies the definition of *an area developed for urban purposes* (1) to remove that it may have a total resident population equal to at least two and three-tenths persons for each area of land included within its boundaries; (2) to change the total resident population requirement to equal four (was, one) persons for each acre of land within its boundaries and is subdivided into lots and tracts such that at least 60% of the total acreage consists of *residential* lots and tracts three acres or less in size and such that at least 65% of the total number of lots and tracts are one-half (was, one) acre or less in size; (3) to change the minimum 60% development requirement for commercial, industrial, institutional or government purposes (was, included residential) lots and tracts to also require that *at least 20% of the total number of lots and tracts in the area at the time of the annexation are used for residential purposes and consists of tracts one-half acre or less*; and (4) to remove that the area may be so developed, at the time of the approval of the annexation report, that all tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes. Eliminates that an area adjacent, on at least 60% of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes may be annexed even though the area does not meet the definition on its own. Modifies the definition of *necessary land connection* to mean an area that does not exceed 15% (was, 25%) of the total area to be annexed. Makes technical changes.

Amends GS 160A-49 by reorganizing and modifying the requirements for passing a resolution of consideration to encompass the procedure previously applicable to a resolution of intent. Makes conforming deletions. Requires that notification be sent by certified mail to the county board of commissioners of the affected territory. Allows the county board of commissioners in that territory to fix the date of the public hearing on the question of annexation. Requires the governing board to provide the report to the board of commissioners of the counties where the municipality and the area to be annexed are located. Modifies the information that must be included in the notice of public hearing. Requires that notice of the informational meeting be mailed to property owners by certified (was, first class) mail and, if the notice is returned as undeliverable by the tenth day prior to the informational meeting, then a copy of the notice must be posted on the property. Sets forth the specific information to be included in the notice of the public informational meeting. Requires that the county board of commissioners hear all public comments and certify and state whether the annexation described in the notice of consideration is reasonable, financially sound, necessary for the extension of meaningful services, in the best interests of the residents in the annexed area, and does not adversely affect the administration or the finances of the county or municipality considering annexation. If objections are raised at the public meeting, then the county board of commissioners must call a referendum on the question or, additionally, if 15% of voters in the municipality ask for a referendum by a petition presented at the hearing, then the question must be held separately within that municipality. Provides for an election and the form of the referendum question. Allows the municipal governing board to adopt a resolution of intent only after securing approval by the county board of commissioners, and approval by the voters, if applicable, after at least one year from the date of adoption of the resolution of consideration (was, the municipal governing board takes into consideration facts presented at the public hearing and provides for an additional public hearing if necessary). Increases the time period for a property owner to petition the Local Government Commission for abatement of taxes due to the failure of the city to extend meaningful services to property within annexed area to within 90 (was, 60) days after the expiration of the three-year period time limit for completion by the municipality. Provides that, if the city fails to provide these services in the same manner and on the same basis as provided to the municipality within three years, and at least 25% of the property owners in the annexed area petition the county governing board, then a referendum on the question of removal from the corporate limits must be submitted to the voters in the newly annexed area and may be submitted to remaining residents of the municipality.

Provides for an election and the form of the referendum question to be presented to voters, including setting forth consequences of deannexation. Makes conforming changes.

Amends GS 160A-50 to increase the time period for a property owner to file a petition in superior court claiming that the person suffered injury (was, material injury) because the municipal governing board failed to follow statutorily required procedures to 90 days (was, 60 days) following passage of an annexation ordinance. Makes conforming changes.

Makes technical and conforming changes to GS 160A-58.27(f)(1), GS 160A-294(a), GS 162A-93(b), GS 105-277.4(b), GS 153A-304.1(d), GS 69-25.15(d), and GS 160A-327(g). Provides that any reference to Part 2 of Article 4A of GS Chapter 160A is deemed to be a reference to Part 3 of Article 4A of GS Chapter 160A in (1) Section 3 of SL 2007-334, (2) SL 1995-426, and (3) SL 1995-348. Repeals SL 1985-92 (Craven Annexation By Vote).

Specifies that this 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 Shaw.

GS 69, 105, 153A, 160A, 162A