

March 19, 2009

S 711. ANNEXATION LAW OMNIBUS. Filed 3/19/09. *TO MODERNIZE THE LAWS RELATING TO MUNICIPAL ANNEXATION AND THE EXERCISE OF EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION IN ORDER TO CONFORM THE PRINCIPLES AND POLICIES OF THE 1959 REPORT OF THE MUNICIPAL ANNEXATION STUDY COMMISSION TO THE PRESENT CIRCUMSTANCES OF URBANIZATION AND URBAN DEVELOPMENT IN NORTH CAROLINA; TO CODIFY THE HOLDING OF THE DECISION IN NOLAN V. VILLAGE OF MARVIN, TO MORE CLOSELY ALIGN THE PURPOSES AND OPERATION OF THE LAWS RELATING TO MUNICIPAL ANNEXATION AND EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION; AND TO REQUIRE THAT ALL EXISTING MUNICIPAL CORPORATIONS IN NORTH CAROLINA OFFER A MEANINGFUL LEVEL OF URBAN SERVICES TO THEIR CITIZENS IN ORDER TO RETAIN THEIR CHARTERS.*

Repeals the provisions of annexation law solely applicable to municipalities with populations under 5,000 and, except as noted below, makes annexation standards uniform for cities of all population sizes.

Amends GS 160A-46 to provide that in order to be eligible to annex territory, cities must be providing a minimum level of specified services at the time of adoption of the mandated report for provision of services to annexed areas. For cities with populations over 5,000, the minimum services provided must include police protection, fire protection, planning and zoning, and at least four of ten other services (solid waste collection, solid waste disposal, street acquisition and construction, street maintenance, parks and recreation, water treatment, water distribution, wastewater collection, wastewater treatment, or public transportation). For cities with populations under 5,000, the minimum services provided must include planning and zoning, at least two of three specified services (police, fire, or solid waste collection), and at least two of nine other specified services (solid waste disposal, street construction, street maintenance, parks and recreation, water treatment, water distribution, wastewater collection, wastewater treatment, or public transportation). For cities with populations over 5,000, provides that these services may be supplied directly by the municipality, that planning and zoning services may be provided by a city-county planning agency, and the additional services (other than police and fire) may be provided by contract with a private service provider. Cities with populations under 5,000 may also count: (1) fire services provided by contract with a rural fire department; (2) planning and zoning services provided by contract with a regional council of governments; (3) street acquisition, construction, and maintenance provided by contract with the state Department of Transportation, provided the city reimburses the Department in full and the city has accepted for maintenance all residential and commercial subdivision streets within its jurisdiction. For purposes of these calculations, prohibits a city from counting any service that is already provided in an area to be annexed by a county, a joint agency, or an independent authority. Amends GS 160A-31 to prohibit annexation by petition if the municipality is not eligible to annex territory under GS 160A-46.

Amends GS 160A-360 to limit exercise of extraterritorial planning and development regulation authority to those cities that meet the above criteria to be eligible for annexation authority. Requires use of most recent federal decennial census to establish the city's population relative to size of potential extraterritorial jurisdiction (was, annual estimate of population certified by Department of Administration). Allows jurisdiction providing approval of another jurisdiction's proposed extraterritorial jurisdiction to rescind that approval immediately if the other jurisdiction has not yet mailed the notice of the public hearing on the potential amendment of jurisdiction (current provision requires two years notice of rescission if there is not mutual agreement between the two jurisdictions).

Amends GS 120-163 regarding review of petitions for new municipal incorporations to require that petitions for incorporation include a statement that the proposed municipality will, not later than the first day of the third fiscal year following incorporation, provide sufficient services such that the municipality would meet the annexation eligibility standards required for a municipality with a population under 5,000. The statement must include a report showing the plan for providing such services.

Amends GS 160A-47 to require report on plans to extend to annexed areas all of the municipal services offered that make the municipality eligible to annex territory (was, report on

extension of police, fire, solid waste collection, and street maintenance). Allows requests for extension of water and sewer lines to be made within 30 days of hearing (was, five days). Requires assumption that all eligible property owners will request water and sewer services when calculating costs of extended water and sewer services. Requires financing and service impacts to include projections for at least five years beyond the first year of service extension.

Amends GS 160A-48 to prohibit "shoe-string" annexations longer than 300 feet of public streets, street rights-of-way, utility easements, or watercourses. Requires that if one lot within a final subdivision plat that has been approved is annexed, all lots within that subdivision must be annexed unless the lots are in a municipality or are in another county. Provides that any area that has been completely surrounded by the primary corporate limits of the municipality for at least ten years may be counted as land developed for urban purposes. Allows cities with populations of 5,000 or more to annex necessary land connections, provided these areas are not more than 20% (was, 25%) of the area annexed.

Amends GS 160A-49 regarding procedures to be followed for annexations. Requires adoption of resolution of consideration, which can remain effective for two years. Provides that resolution of intent to annex may be adopted six months or later after adoption of resolution of consideration. Sets notice and public meeting requirements. Requires land owners be provided a form for requesting water and sewer services and specifies content of information to be provided on that form. Requires inclusion of an annexation timeline, remedies for contesting annexation, and provision of services in the required public meetings notice and at the required public meetings. Requires that all annexations be effective on June 30 of the specified year, which must be at least 90 but not more than 455 days after passage of the annexation ordinance. Requires reports to the Local Government Commission on responses to requests for extension of services, allows the Commission to order corrective action, and prohibits future annexation until orders of the Commission have been complied with.

Amends GS 160A-50 to allow landowners 90 days (was, 60 days) to file petitions for judicial review of annexations. Amends GS 160A-54 regarding population, area, and subdivision estimates to increase the required level of accuracy as follows: (1) population estimates have no more than 5% error rate (was 10%) and land area and subdivision estimates have no more than 3% error rate (was, 5%).

Amends GS 160A-232 to allow water and sewer assessments made pursuant to annexation to be paid in up to twenty annual installments and tap fees in up to five annual installments.

Amends GS 160A-364 to require that the two required published notices of hearings for adoption, amendment, or repeal of all municipal land development ordinances be published on the same day of the week in successive weeks (was, published in two separate calendar weeks), effective for notices published on or after October 1, 2009.

Creates GS 160A-58.31 to allow municipalities to enter contracts to provide water or sewer service in return for an owner's agreement to petition for annexation or not to appeal annexation. Provides for recordation and enforcement of these annexation contracts.

Requires the Local Government Commission to report on or before January 1, 2015, as to the identities of all municipalities that are not qualified to make annexations as of July 1, 2014, because of their inability to offer the requisite services. Provides that the charters of each identified municipality shall lapse and the municipality cease to exist on December 31, 2015, unless the municipality's charter has been renewed by the General Assembly. Authorizes the Local Government Commission to dispose of the assets, liabilities, and properties of these terminated municipalities.

Amends GS 160A-58.10 regarding proration and effective dates of real and personal property taxes and privilege license taxes.

Repeals local act regarding annexation by referendum in Craven County towns with populations under 500. Makes other conforming amendments.

Effective when the act becomes law, but does not apply to annexations for which a resolution of intent was adopted prior to the date the act becomes law.

Intro. by Clodfelter.

GS 105, 120, 153A, 160A, 162A, 169