

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 171  
PROPOSED COMMITTEE SUBSTITUTE H171-PCS90041-SV-5

Short Title: Municipal Self-Annexations.

(Public)

Sponsors:

Referred to:

February 24, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A MUNICIPALITY HAS NO AUTHORITY TO PETITION ITSELF FOR SELF-ANNEXATION OF PROPERTY IT DOES NOT OWN OR HAVE ANY LEGAL INTEREST IN, SUCH AS STATE-MAINTAINED STREETS, AND TO CLARIFY THAT A PETITION FOR VOLUNTARY SATELLITE ANNEXATION MUST BE SIGNED AND, IF NO SIGNATURE IS REQUIRED FOR CERTAIN PROPERTY, THE PROPERTY MAY NOT BE INCLUDED IN THE PETITION OVER THE OWNER'S OBJECTION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-58.1(a) reads as rewritten:

"(a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations. A petition is not valid in any of the following circumstances:

(1) It is unsigned.

(2) It is signed by the city for the annexation of property the city does not own or have a legal interest in. For the purpose of this subdivision, a city has no legal interest in a State-maintained street unless it owns the underlying fee and not just an easement.

(3) It is for the annexation of property for which a signature is not required and the property owner objects to the annexation."

**SECTION 2.** G.S. 160A-58.7 reads as rewritten:

**"§ 160A-58.7. Annexation of municipal property.**

(a) The city council may initiate annexation of property not contiguous to the primary corporate limits and owned by the city by adopting a resolution stating its intent to annex the property, in lieu of filing a petition. The property must satisfy the requirements of G.S. 160A-58.1. The resolution shall contain an adequate description of the property and fix a date for a public hearing on the question of annexation. Notice of the public hearing shall be published once at least 10 days before the date of the hearing. At the hearing, any resident of the city may appear and be heard on the question of the desirability of the annexation. If the council finds that annexation is in the public interest, it may adopt an ordinance annexing the



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1 property. The ordinance may be made effective immediately or on any specified date within six  
2 months from the date of passage.

3 (b) A city has no authority to adopt a resolution or petition itself under this Part for  
4 annexation of property it does not own or have any legal interest in. For the purpose of this  
5 subsection, a city has no legal interest in a State-maintained street unless it owns the underlying  
6 fee and not just an easement."

7 **SECTION 3.** 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 (c) Upon receipt of the petition, the municipal governing board shall cause the clerk of  
22 the municipality to investigate the sufficiency thereof and to certify the result of his  
23 investigation. Upon receipt of the certification, the municipal governing board shall fix a date  
24 for a public hearing on the question of annexation, and shall cause notice of the public hearing  
25 to be published once in a newspaper having general circulation in the municipality at least 10  
26 days prior to the date of the public hearing; provided, if there be no such paper, the governing  
27 board shall have notices posted in three or more public places within the area to be annexed and  
28 three or more public places within the municipality.

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

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

47 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the  
48 petition is submitted, such area either abuts directly on the municipal boundary or is separated  
49 from the municipal boundary by a street or street right-of-way, a creek or river, or the  
50 right-of-way of a railroad or other public service corporation, lands owned by the municipality  
51 or some other political subdivision, or lands owned by the State of North Carolina. In

1 describing the area to be annexed in the annexation ordinance, the municipal governing board  
2 may include within the description any territory described in this subsection which separates  
3 the municipal boundary from the area petitioning for annexation.

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

11 (h) A city council which receives a petition for annexation under this section may by  
12 ordinance require that the petitioners file a signed statement declaring whether or not vested  
13 rights with respect to the properties subject to the petition have been established under  
14 G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been  
15 established, the city may require petitioners to provide proof of such rights. A statement which  
16 declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1  
17 shall be binding on the landowner and any such vested right shall be terminated.

18 (i) A municipality has no authority to adopt a resolution or petition itself under this Part  
19 for annexation of property it does not own or have any legal interest in. For the purpose of this  
20 subsection, a municipality has no legal interest in a State-maintained street unless it owns the  
21 underlying fee and not just an easement."

22 **SECTION 4.** This act is effective when it becomes law.