

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 231
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/8/11
PROPOSED HOUSE COMMITTEE SUBSTITUTE S231-PCS95234-LB-119

Short Title: Municipal Incorp Standards/Water Extensions.

(Public)

Sponsors:

Referred to:

March 8, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STANDARDS REQUIRED FOR INCORPORATION OF A
3 MUNICIPALITY AND TO REQUIRE APPROVAL OF THE MUNICIPAL
4 GOVERNING BOARD PRIOR TO CERTAIN EXTENSIONS OF WATER OR SEWER
5 SERVICE BY OTHER GOVERNMENT ENTITIES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 120-163 reads as rewritten:

8 "§ 120-163. Petition.

9 (a) The process of seeking the recommendation of the Municipal Incorporations
10 Subcommittee is commenced by filing with the Municipal Incorporations Subcommittee a
11 petition signed by fifteen percent (15%) of the registered voters of the area proposed to be
12 incorporated, but by not less than ~~25~~50 registered voters of that area, asking for incorporation.
13 The voter shall sign the petition and also clearly print that voter's name adjacent to the
14 signature. The petition must also contain the voter's residence address and date of birth.

15 (b) The petition must be verified by the county board of elections of the county where
16 the voter is alleged to be registered. The board of elections shall cause to be examined the
17 signature, shall place a check mark beside the name of each signer who is qualified and
18 registered to vote in that county in the area proposed to be incorporated, and shall attach to the
19 petition a certificate stating the number of voters registered in that county in the area proposed
20 to be incorporated, and the total number of registered voters who have been verified. The
21 county board of elections shall return the petition to the person who presented it within 15
22 working days of receipt. That period of 15 working days shall be tolled for any period of time
23 that is also either two weeks before or one week after a primary or election being conducted by
24 the county board of elections.

25 (c) The petition must include a proposed name for the city, a map of the city, a list of
26 proposed services to be provided by the proposed municipality, the names of three persons to
27 serve as interim governing board, a proposed charter, a statement of the estimated population,
28 assessed valuation, degree of development, population density, and recommendations as to the
29 form of government and manner of election. The petition must contain a statement that the
30 proposed municipality will have a budget ordinance with an ad valorem tax levy of at least ~~five~~
31 ~~cents (5¢)~~ twenty cents (20¢) on the one hundred dollar (\$100.00) valuation upon all taxable
32 property within its corporate limits. The petition must contain a statement that the proposed
33 municipality will offer ~~four~~ all of the following services no later than the first day of the third



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1 fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire
 2 protection; (iii) ~~solid waste wastewater treatment, collection or disposal; and (iv) water~~
 3 ~~distribution; distribution.~~ (v) ~~street maintenance;~~ (vi) ~~street construction or right-of-way~~
 4 ~~acquisition;~~ (vii) ~~street lighting;~~ and (viii) ~~zoning.~~ The petition shall also list any other services
 5 the proposed municipality proposes to offer. In order to qualify for providing police protection,
 6 the proposed municipality must propose either to provide police service or to have services
 7 provided by contract with a county or another municipality that proposes that the other
 8 government be compensated for providing supplemental protection. The proposed municipality
 9 may not contain any noncontiguous areas.

10 (d) The petitioners must present to the Municipal Incorporations Subcommittee the
 11 verified petition from the county board of elections.

12 (e) A petition must be submitted to the Municipal Incorporations Subcommittee at least
 13 60 days prior to convening of the next regular session of the General Assembly in order for the
 14 Municipal Incorporations Subcommittee to make a recommendation to that session."

15 **SECTION 2.** G.S. 120-167 reads as rewritten:

16 **"§ 120-167. Additional criteria; population.**

17 The Commission may not make a positive recommendation unless the proposed
 18 municipality has a ~~permanent population of at least 100 and a population density (either~~
 19 ~~permanent or seasonal) of at least 250 persons per square mile.~~ mile and a population as
 20 defined in G.S. 120-166(a) equal to or greater than that provided in the following schedule:

21 If the proposed municipality is located within:

- | | | |
|--------|--|------------------------|
| 22 (1) | <u>One-half mile of a municipality of under 5,000</u> | <u>250 persons.</u> |
| 23 (2) | <u>One mile of a municipality of 5,000 to 9,999</u> | <u>500 persons.</u> |
| 24 (3) | <u>Three miles of a municipality of 10,000 to 24,999</u> | <u>1,000 persons.</u> |
| 25 (4) | <u>Four miles of a municipality of 25,000 to 49,999</u> | <u>2,000 persons.</u> |
| 26 (5) | <u>Four miles of a municipality of 50,000 or more</u> | <u>4,000 persons."</u> |

27 **SECTION 3.** G.S. 120-172 reads as rewritten:

28 **"§ 120-172. Referendum.**

29 ~~Based on information received at the public hearing, the Commission may~~ The Commission
 30 shall recommend that any incorporation act passed by the General Assembly shall be submitted
 31 to a referendum. ~~referendum, except if the petition contained the signatures of fifty percent~~
 32 ~~(50%) of registered voters the Commission shall not recommend a referendum."~~

33 **SECTION 4.** Article 16 of Chapter 160A of the General Statutes is amended by
 34 adding a new section to read:

35 **"§ 160A-329. Extension of water or sewer service by other public entities near municipal**
 36 **limits.**

37 No public water or sewer system may establish or extend water or sewer service within one
 38 mile of the corporate limits of a municipality with a population of 5,000 to 9,999; within three
 39 miles of the corporate limits of a municipality with a population of 10,000 to 24,999; within
 40 four miles of the corporate limits of a municipality with a population of 25,000 to 49,999; or
 41 within five miles of the corporate limits of a municipality with a population of 50,000 or more,
 42 according to the most recent annual estimate of the Office of State Budget and Management,
 43 unless each of the governing boards of any municipalities within the prescribed distances has
 44 adopted a resolution approving of the establishment or extension of service. For purposes of
 45 this section, the following definitions apply:

- 46 (1) "Corporate limits" means only the primary corporate limits and does not
 47 include satellite corporate limits.
 48 (2) "Municipality" means a city as defined by G.S. 160A-1(2), and only the
 49 primary corporate limits of the municipality may be considered in
 50 establishing the mileage limitations. This section does not affect the ability
 51 of any such entity to serve existing customers.

1 (3) "Public water or sewer system" means (i) a water or sewer authority formed
2 under Article 1 of Chapter 162A of the General Statutes; (ii) a metropolitan
3 water district formed under Article 4 of Chapter 162A of the General
4 Statutes; (iii) a metropolitan sewerage district formed under Article 5 of
5 Chapter 162A of the General Statutes; (iv) a county water or sewer district
6 formed under Article 6 of Chapter 162A of the General Statutes; (v) a
7 sanitary district formed under Article 2 of Chapter 130A of the General
8 Statutes; (vi) a county-owned or county-operated water or sewer system; or
9 (vi) a joint agency providing a water or sewer system by interlocal
10 agreement under Article 20 of Chapter 160A of the General Statutes of
11 which that municipality is not a member of or party to."

12 **SECTION 5.** This act is effective when it becomes law.