

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 231
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/8/11
House Committee Substitute Favorable 6/7/12
PROPOSED HOUSE COMMITTEE SUBSTITUTE S231-PCS95240-LB-128

Short Title: Municipal Incorporation Standards.

(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.

4 The General Assembly of North Carolina enacts:

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

6 "§ 120-163. Petition.

7 (a) The process of seeking the recommendation of the Municipal Incorporations
8 Subcommittee is commenced by filing with the Municipal Incorporations Subcommittee a
9 petition signed by fifteen percent (15%) of the registered voters of the area proposed to be
10 incorporated, but by not less than ~~2550~~ registered voters of that area, asking for incorporation.
11 The voter shall sign the petition and also clearly print that voter's name adjacent to the
12 signature. The petition must also contain the voter's residence address and date of birth.

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

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



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1 protection; (iii) ~~solid waste~~ wastewater treatment, collection or disposal; and (iv) water
 2 ~~distribution; distribution.~~ (v) street maintenance; (vi) street construction or right-of-way
 3 ~~acquisition; (vii) street lighting; and (viii) zoning.~~ The petition shall also list any other services
 4 the proposed municipality proposes to offer. In order to qualify for providing police
 5 ~~protection, offering a service, the proposed municipality must propose either to provide police~~
 6 ~~service or to have services provided by contract with a county or another municipality that~~
 7 ~~proposes that the other government be compensated for providing supplemental protection.~~
 8 either provide the service directly or through a contract in which the contracting party is
 9 compensated by the proposed municipality for providing the service, except in the case of
 10 water distribution or wastewater treatment if the entire area of the proposed municipality is
 11 within the service area of a water and sewer authority or other special district providing that
 12 service. The proposed municipality may not contain any noncontiguous areas.

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

15 (e) A petition must be submitted to the Municipal Incorporations Subcommittee at least
 16 60 days prior to convening of the next regular session of the General Assembly in order for the
 17 Municipal Incorporations Subcommittee to make a recommendation to that session."

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

19 "**§ 120-167. Additional criteria; population.**

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

24 If the proposed municipality is located within:

- | | | |
|----|--|------------------------|
| 25 | <u>(1) One-half mile of a municipality of under 5,000</u> | <u>250 persons.</u> |
| 26 | <u>(2) One mile of a municipality of 5,000 to 9,999</u> | <u>500 persons.</u> |
| 27 | <u>(3) Three miles of a municipality of 10,000 to 24,999</u> | <u>1,000 persons.</u> |
| 28 | <u>(4) Four miles of a municipality of 25,000 to 49,999</u> | <u>2,000 persons.</u> |
| 29 | <u>(5) Four miles of a municipality of 50,000 or more</u> | <u>4,000 persons."</u> |

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

31 "**§ 120-172. Referendum.**

32 ~~Based on information received at the public hearing, the Commission may~~ The Commission
 33 shall recommend that any incorporation act passed by the General Assembly shall be submitted
 34 to a referendum. ~~referendum, except if the petition contained the signatures of fifty percent~~
 35 ~~(50%) of registered voters the Commission shall not recommend a referendum."~~

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