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(Public)

Sponsors:

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March 19, 1997

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE TOWNS OF APEX, FUQUAY-VARINA, KNIGHTDALE, RALEIGH, AND WAKE FOREST, TO PROVIDE STAGGERED TERMS FOR THE TOWN OF BROADWAY, TO PROVIDE THAT THE BOARD OF COMMISSIONERS OF LEE COUNTY SHALL CONSIST OF SEVEN MEMBERS ELECTED AT LARGE FOR FOUR-YEAR STAGGERED TERMS ON A NONPARTISAN BASIS AT THE TIME OF THE GENERAL ELECTION, AND TO CHANGE THE ANNEXATION LAWS.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 160A-58.1(b)(2) shall not apply to any property if:

- (1) The property is within the Town's perimunicipal planning area, as delineated on the Perimunicipal Planning Areas Map, which has been approved by Wake County.

1 (2) The Town has entered into an annexation agreement pursuant to Part 6
2 of Article 4A of Chapter 160A of the General Statutes with the city to
3 which a point on the proposed satellite corporate limits is closer, and
4 that agreement states that the parties have agreed to waive the
5 provisions of G.S. 160A-58.1(b)(2) as to any property that is within the
6 Town's Perimunicipal Planning Area and as more particularly described
7 in the agreement.

8 (b) This section applies only to the Towns of Apex, Fuquay-Varina, Knightdale,
9 Raleigh, and Wake Forest, but shall not apply to property in Chatham County.

10 Section 2. Section 3 of the Charter of the Town of Broadway, being Chapter
11 548 of the Session Laws of 1947 as amended by Chapter 789 of the Session Laws of
12 1949, reads as rewritten:

13 "Sec. 3. At the time of the holding of the next general election following ratification
14 of this Act, and ~~biennially~~ thereafter, there shall be elected in the Town of Broadway in
15 accordance with the provisions of Article 3 of Chapter 160 of the General Statutes of
16 North Carolina, as amended, the following officers: ~~A mayor, five town commissioners, and~~
17 ~~a town constable.~~ A mayor and five town commissioners. The mayor shall be elected for
18 a four-year term. In 1997, the three persons receiving the highest numbers of votes for
19 town commissioner are elected to four-year terms, and the two persons receiving the next
20 highest numbers of votes for town commissioner are elected to two-year terms. In 1999
21 and quadrennially thereafter, two town commissioners are elected to four-year terms. In
22 2001 and quadrennially thereafter, three town commissioners are elected to four-year
23 terms. The mayor and the five town commissioners so elected shall constitute the
24 governing body of the Town of Broadway, and such governing body may appoint such
25 other officers and employ such assistants as the governing body of the town may deem
26 necessary for the better governance of the town."

27 Section 3. (a) Effective with the 1998 election, the Board of Commissioners of
28 Lee County consists of seven members elected at large for four-year terms. In 1998 and
29 quadrennially thereafter, four commissioners shall be elected. In 2000 and quadrennially
30 thereafter, three commissioners shall be elected.

31 (b) Notwithstanding the provisions of Chapter 163 of the General Statutes, the
32 Board of Commissioners of Lee County shall be elected on a nonpartisan basis at the
33 time set by G.S. 163-1 for the general election in each even-numbered year as terms
34 expire. The election shall be conducted on a nonpartisan plurality basis, with the results
35 determined in accordance with G.S. 163-292. Candidates shall file notices of candidacy
36 not earlier than noon on the third Monday in June and not later than noon on the third
37 Friday in July. The names of the candidates shall be printed on the ballot without
38 reference to any party affiliations. Except as provided by this act, the election shall be
39 conducted in accordance with the applicable provisions of Chapter 163 of the General
40 Statutes.

41 (c) This section does not affect the terms of office of current members of the
42 Board of Commissioners of Lee County.

43 Section 4. G.S. 160A-38 is rewritten by adding a new subsection to read:

1 "(l) Any settlement reached by all parties in an appeal under this section may be
2 presented to the superior court in the county in which the municipality is located. If the
3 superior court, in its discretion, approves the settlement, it shall be binding on all parties
4 without the need for approval by the General Assembly."

5 Section 5. G.S. 160A-50 is amended by adding a new subsection to read:

6 "(m) Any settlement reached by all parties in an appeal under this section may be
7 presented to the superior court in the county in which the municipality is located. If the
8 superior court, in its discretion, approves the settlement, it shall be binding on all parties
9 without the need for approval by the General Assembly."

10 Section 6. G.S. 160A-47 reads as rewritten:

11 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

12 A municipality exercising authority under this Part shall make plans for the extension
13 of services to the area proposed to be annexed and shall, prior to the public hearing
14 provided for in G.S. 160A-49, prepare a report setting forth such plans to provide
15 services to such area. The report shall include:

16 (1) A map or maps of the municipality and adjacent territory to show the
17 following information:

- 18 a. The present and proposed boundaries of the municipality.
- 19 b. The present major trunk water mains and sewer interceptors and
20 outfalls, and the proposed extensions of such mains and outfalls
21 as required in subdivision (3) of this section. The water and
22 sewer map must bear the seal of a registered professional
23 engineer.
- 24 c. The general land use pattern in the area to be annexed.

25 (2) A statement showing that the area to be annexed meets the requirements
26 of G.S. 160A-48.

27 (3) A statement setting forth the plans of the municipality for extending to
28 the area to be annexed each major municipal service performed within
29 the municipality at the time of annexation. Specifically, such plans
30 shall:

- 31 a. Provide for extending police protection, fire protection, solid
32 waste collection and street maintenance services to the area to be
33 annexed on the date of annexation on substantially the same basis
34 and in the same manner as such services are provided within the
35 rest of the municipality prior to annexation. A contract with a
36 rural fire department to provide fire protection shall be an
37 acceptable method of providing fire protection. If a water
38 distribution system is not available in the area to be annexed, the
39 plans must call for reasonably effective fire protection services
40 until such time as waterlines are made available in such area
41 under existing municipal policies for the extension of waterlines.
42 A contract with a private firm to provide solid waste collection

- 1 services shall be an acceptable method of providing solid waste
2 collection services.
- 3 b. Provide for extension of major trunk water mains and sewer
4 outfall lines into the area to be annexed so that when such lines
5 are constructed, property owners in the area to be annexed will
6 be able to secure public water and sewer service, according to the
7 policies in effect in such municipality for extending water and
8 sewer lines to individual lots or subdivisions. If requested by the
9 owner of an occupied dwelling unit or an operating commercial
10 or industrial property in writing on a form provided by the
11 municipality, which form acknowledges that such extension or
12 extensions will be made according to the current financial
13 policies of the municipality for making such extensions, and if
14 such form is received by the city clerk not less than 30 days
15 before adoption of the annexation ordinance, provide for
16 extension of water and sewer lines to the property or to a point on
17 a public street or road right-of-way adjacent to the property
18 according to the financial policies in effect in such municipality
19 for extending water and sewer lines. If any such requests are
20 timely made, the municipality shall at the time of adoption of the
21 annexation ordinance amend its report and plan for services to
22 reflect and accommodate such requests.
- 23 c. If extension of major trunk water mains, sewer outfall lines,
24 sewer lines and water lines is necessary, set forth a proposed
25 timetable for construction of such mains, outfalls and lines as
26 soon as possible following the effective date of annexation. In
27 any event, the plans shall call for construction to be completed
28 within two years of the effective date of annexation.
- 29 d. Set forth the method under which the municipality plans to
30 finance extension of services into the area to be annexed.
- 31 e. Provide for street paving service on substantially the same basis
32 and in the same manner as that service is provided within the rest
33 of the municipality prior to the annexation.
- 34 f. Include a summary of city police, fire, solid waste, street
35 maintenance and paving, water and sewer services provided to
36 current city residents as of 90 days prior to the date set for the
37 public hearing.
- 38 (4) A statement of the impact of the annexation on any rural fire department
39 providing service in the area to be annexed and a statement of the
40 impact of the annexation on fire protection and fire insurance rates in
41 the area to be annexed, if the area where service is provided is in an
42 insurance district designated under G.S. 153A-233, a rural fire
43 protection district under Article 3A of Chapter 69 of the General

1 Statutes, or a fire service district under Article 16 of Chapter 153A of
2 the General Statutes. The rural fire department shall make available to
3 the city not later than 30 days following a written request from the city
4 all information in its possession or control, including but not limited to
5 operational, financial and budgetary information, necessary for
6 preparation of a statement of impact. The rural fire department forfeits
7 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a
8 good faith response within 45 days following receipt of the written
9 request for information from the city, provided that the city's written
10 request so states by specific reference to this section.

11 (5) If the lot or tract standard was used to qualify the area, the report shall
12 state the classification of each lot or tract in the area to be annexed as to
13 use and size. If a population standard was used to qualify the area, the
14 report shall state how the population estimate of the area was
15 determined.

16 (6) A clear and easily understandable statement notifying persons affected
17 by the annexation of their right to appeal under G.S. 160A-50, the right
18 to request water and sewer services under subdivision (3)b. of this
19 section, and the remedies under G.S. 160A-49(h) and (k) for failure of
20 the city to provide services.

21 (7) A statement showing how the proposed annexation will affect the city's
22 finances and services, including city revenue change estimates. This
23 statement shall be delivered to the clerk of the board of county
24 commissioners at least 30 days before the date of any public hearing on
25 any annexation under this Part."

26 Section 7. G.S. 160A-48(d) reads as rewritten:

27 "(d) In addition to areas developed for urban purposes, a governing board may
28 include in the area to be annexed any area which does not meet the requirements of
29 subsection (c) if such area either:

30 (1) Lies between the municipal boundary and an area developed for urban
31 purposes so that the area developed for urban purposes is either not
32 adjacent to the municipal boundary or cannot be served by the
33 municipality without extending services and/or water and/or sewer lines
34 through such sparsely developed area; or

35 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to
36 any combination of the municipal boundary and the boundary of an area
37 or areas developed for urban purposes as defined in subsection (c).

38 The purpose of this subsection is to permit municipal governing boards to extend
39 corporate limits to include all nearby areas developed for urban purposes and where
40 necessary to include areas which at the time of annexation are not yet developed for
41 urban purposes but which constitute necessary land connections between the municipality
42 and areas developed for urban purposes or between two or more areas developed for

1 urban purposes. For purposes of this subsection, 'necessary land connection' means an
2 area which does not exceed twenty-five percent (25%) of the total area to be annexed."

3 Section 8. G.S. 160A-49(b) reads as rewritten:

4 "(b) Notice of Public Hearing. – The notice of public hearing shall:

5 (1) Fix the date, hour and place of the public hearing.

6 (2) Describe clearly the boundaries of the area under consideration, and
7 include a legible map of the area.

8 (3) Include a clear and easily understandable statement notifying persons
9 affected by the annexation of their right to appeal under G.S. 160A-50,
10 the right to request water and sewer services under G.S. 160A-47(3)b.,
11 and the remedies under G.S. 160A-49(h) and (k) for failure of the city to
12 provide services.

13 ~~(3)~~(4) State that the report required in G.S. 160A-47 will be available at the
14 office of the municipal clerk at least 30 days prior to the date of the
15 public hearing.

16 Such notice shall be given by publication once a week for at least two successive
17 weeks prior to the date of the hearing in a newspaper having general circulation in the
18 municipality and, in addition thereto, if the area to be annexed lies in a county containing
19 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
20 general circulation in the area of proposed annexation. The period from the date of the
21 first publication to the date of the last publication, both dates inclusive, shall be not less
22 than eight days including Sundays, and the date of the last publication shall be not more
23 than seven days preceding the date of public hearing. If there be no such newspaper, the
24 municipality shall post the notice in at least five public places within the municipality and
25 at least five public places in the area to be annexed for 30 days prior to the date of public
26 hearing. In addition, notice shall be mailed at least four weeks prior to date of the
27 hearing by first class mail, postage prepaid to the owners as shown by the tax records of
28 the county of all freehold interests in real property located within the area to be annexed.
29 The person or persons mailing such notices shall certify to the governing board that fact,
30 and such certificate shall become a part of the record of the annexation proceeding and
31 shall be deemed conclusive in the absence of fraud. If the notice is returned to the city by
32 the postal service by the tenth day before the hearing, a copy of the notice shall be sent by
33 certified mail, return receipt requested, at least seven days before the hearing. Failure to
34 comply with the mailing requirements of this subsection shall not invalidate the
35 annexation unless it is shown that the requirements were not substantially complied with.
36 If the governing board by resolution finds that the tax records are not adequate to identify
37 the owners of some or all of the parcels of real property within the area it may in lieu of
38 the mail procedure as to those parcels where the owners could not be so identified, post
39 the notice at least 30 days prior to the date of public hearing on all buildings on such
40 parcels, and in at least five other places within the area to be annexed. In any case where
41 notices are placed on property, the person placing the notices shall certify that fact to the
42 governing board."

43 Section 9. G.S. 160A-49(d) reads as rewritten:

1 "(d) Public Hearing. – At the public hearing a representative of the municipality
2 shall first make an explanation of the report required in ~~G.S. 160A-47.~~ G.S. 160A-47,
3 including appeal rights as summarized in G.S. 160A-47(6). Following such explanation,
4 all persons resident or owning property in the territory described in the notice of public
5 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

6 Section 10. G.S. 160A-35 reads as rewritten:

7 "**§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

8 A municipality exercising authority under this Part shall make plans for the extension
9 of services to the area proposed to be annexed and shall, prior to the public hearing
10 provided for in G.S. 160A-37, prepare a report setting forth such plans to provide
11 services to such area. The report shall include:

12 (1) A map or maps of the municipality and adjacent territory to show the
13 following information:

- 14 a. The present and proposed boundaries of the municipality.
15 b. The proposed extensions of water mains and sewer outfalls to
16 serve the annexed area, if such utilities are operated by the
17 municipality. The water and sewer map must bear the seal of a
18 registered professional engineer or a licensed surveyor.

19 (2) A statement showing that the area to be annexed meets the requirements
20 of G.S. 160A-36.

21 (3) A statement setting forth the plans of the municipality for extending to
22 the area to be annexed each major municipal service performed within
23 the municipality at the time of annexation. Specifically, such plans
24 shall:

- 25 a. Provide for extending police protection, fire protection, solid
26 waste collection and street maintenance services to the area to be
27 annexed on the date of annexation on substantially the same basis
28 and in the same manner as such services are provided within the
29 rest of the municipality prior to annexation. A contract with a
30 rural fire department to provide fire protection shall be an
31 acceptable method of providing fire protection. If a water
32 distribution system is not available in the area to be annexed, the
33 plans must call for reasonably effective fire protection services
34 until such time as waterlines are made available in such area
35 under existing municipal policies for the extension of waterlines.
36 A contract with a private firm to provide solid waste collection
37 services shall be an acceptable method of providing solid waste
38 collection services.

- 39 b. Provide for extension of water mains and sewer lines into the
40 area to be annexed so that property owners in the area to be
41 annexed will be able to secure public water and sewer services
42 according to the policies in effect in such municipality for
43 extending water and sewer lines to individual lots or

- 1 subdivisions. If the municipality must, at its own expense,
2 extend water and/or sewer mains into the area to be annexed
3 before property owners in the area can, according to municipal
4 policies, make such connection to such lines, then the plans must
5 call for contracts to be let and construction to begin on such lines
6 within one year following the effective date of annexation.
- 7 c. Set forth the method under which the municipality plans to
8 finance extension of services into the area to be annexed.
- 9 d. Provide for street paving service on substantially the same basis
10 and in the same manner as that service is provided within the rest
11 of the municipality prior to the annexation.
- 12 e. Include a summary of city police, fire, solid waste, street
13 maintenance and paving, water and sewer services provided to
14 current city residents as of 90 days prior to the date set for the
15 public hearing.
- 16 (4) A statement of the impact of the annexation on any rural fire department
17 providing service in the area to be annexed and a statement of the
18 impact of the annexation on fire protection and fire insurance rates in
19 the area to be annexed, if the area where service is provided is in an
20 insurance district designated under G.S. 153A-233, a rural fire
21 protection district under Article 3A of Chapter 69 of the General
22 Statutes, or a fire service district under Article 16 of Chapter 153A of
23 the General Statutes. The rural fire department shall make available to
24 the city not later than 30 days following a written request from the city
25 all information in its possession or control, including but not limited to
26 operational, financial and budgetary information, necessary for
27 preparation of a statement of impact. The rural fire department forfeits
28 its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to make a
29 good faith response within 45 days following receipt of the written
30 request for information from the city, provided that the city's written
31 request so states by specific reference to this section.
- 32 (5) A statement containing the classification as to use and size of each lot or
33 tract in the area to be annexed.
- 34 (6) A clear and easily understandable statement notifying persons affected
35 by the annexation of their right to appeal under G.S. 160A-38 and the
36 remedy under G.S. 160A-37(h) for failure of the city to provide
37 services.
- 38 (7) A statement showing how the proposed annexation will affect the city's
39 finances and services, including city revenue change estimates. This
40 statement shall be delivered to the clerk of the board of county
41 commissioners at least 30 days before the date of any public hearing on
42 any annexation under this Part."

43 Section 11. G.S. 160A-37(b) reads as rewritten:

1 "(b) Notice of Public Hearing. – The notice of public hearing shall:

2 (1) Fix the date, hour and place of the public hearing.

3 (2) Describe clearly the boundaries of the area under consideration, and
4 include a legible map of the area.

5 (3) Include a clear and easily understandable statement notifying persons
6 affected by the annexation of their right to appeal under G.S. 160A-38
7 and the remedy under G.S. 160A-37(h) for failure of the city to provide
8 services.

9 ~~(3)~~(4) State that the report required in G.S. 160A-35 will be available at the
10 office of the municipal clerk at least 30 days prior to the date of the
11 public hearing.

12 Such notice shall be given by publication once a week for at least two successive
13 weeks prior to the date of the hearing in a newspaper having general circulation in the
14 municipality and, in addition thereto, if the area to be annexed lies in a county containing
15 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
16 general circulation in the area of proposed annexation. The period from the date of the
17 first publication to the date of the last publication, both dates inclusive, shall be not less
18 than eight days including Sundays, and the date of the last publication shall be not more
19 than seven days preceding the date of public hearing. If there be no such newspaper, the
20 municipality shall post the notice in at least five public places within the municipality and
21 at least five public places in the area to be annexed for 30 days prior to the date of public
22 hearing. In addition, notice shall be mailed at least four weeks prior to date of the hearing
23 by first class mail, postage prepaid to the owners as shown by the tax records of the
24 county of all freehold interests in real property located within the area to be annexed. The
25 person or persons mailing such notices shall certify to the governing board that fact, and
26 such certificate shall become a part of the record of the annexation proceeding and shall
27 be deemed conclusive in the absence of fraud. If the notice is returned to the city by the
28 postal service by the tenth day before the hearing, a copy of the notice shall be sent by
29 certified mail, return receipt requested, at least seven days before the hearing. Failure to
30 comply with the mailing requirement of this subsection shall not invalidate the
31 annexation unless it is shown that the requirements were not substantially complied with.

32 If the governing board by resolution finds that the tax records are not adequate to
33 identify the owners of some or all of the parcels of real property within the area it may in
34 lieu of the mail procedure as to those parcels where the owners could not be so identified,
35 post the notice at least 30 days prior to the date of public hearing on all buildings on such
36 parcels, and in at least five other places within the area to be annexed. In any case where
37 notices are placed on property, the person placing the notice shall certify that fact to the
38 governing board."

39 Section 12. G.S. 160A-37(d) reads as rewritten:

40 "(d) Public Hearing. – At the public hearing a representative of the municipality
41 shall first make an explanation of the report required in ~~G.S. 160A-35.~~ G.S. 160A-35,
42 including appeal rights as summarized in G.S. 160A-35(6). Following such explanation,

1 all persons resident or owning property in the territory described in the notice of public
2 hearing, and all residents of the municipality, shall be given an opportunity to be heard."
3 Section 13. Sections 6 through 12 of this act become effective December 1,
4 1997, and apply to annexations for which the resolution of intent is adopted on or after
5 that date. The remainder of this act is effective when it becomes law.