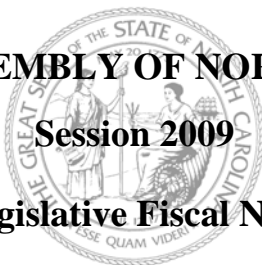


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 524 (Third Edition)

SHORT TITLE: Annexation – Omnibus Changes.

SPONSOR(S): Representatives Luebke, Starnes, Goforth, and Jones

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES	See Assumptions and Methodology				
EXPENDITURES	189,940	185,699	196,023	206,432	217,002
	See Assumptions and Methodology				
POSITIONS (cumulative):	2	2	2	2	2
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State Board of Elections, Department of State Treasurer’s Local Government Commission					
EFFECTIVE DATE: This act becomes effective October 1, 2009.					

BILL SUMMARY:

Under current law, there are four (4) basic ways in which a town or city may annex an area and these are as follows:

1. **Legislative Act** – the General Assembly has the authority to extend the boundaries of any town or city through local acts.
2. **Voluntary Contiguous Annexations** – the owners of all real property in the area desiring to be annexed sign a petition requesting information.
3. **Voluntary Satellite Annexation** – a town or city may annex a non-contiguous area into the town or city limits with the agreement of the property owner.
4. **Nonvoluntary Annexation** – the town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed through a statutorily prescribed process.

HB 524 makes the following various changes to the annexation statutes.

Amends **voluntary contiguous annexation** in the following ways:

Section 1

1. Clarifies that petitions for voluntary contiguous annexation do not need to be signed by owners of real property that is any of the following:
 1. Exempt from property taxation.
 2. Owned by a railroad, public utility, or electric or telephone membership corporation.
2. Prohibits the use of a street as a "shoestring connection" to establish contiguity to an outlying, noncontiguous area.
3. Requires the annexation of contiguous "distressed areas" upon petition of 75% of the property owners in the area, and sets forth an example of the petition.
4. Allows the annexation of contiguous "distressed areas" upon petition of 75% of the resident households located in the area, and sets forth an example of the petition.

Amends **involuntary contiguous annexation** in the following ways:

Section 2

1. Increases the threshold for small-city annexation from a population of less than 5,000, to a population of less than 10,000. Prohibits city-initiated annexation by cities that do not provide at least two meaningful services within the existing corporate boundaries. For the definition of "meaningful services," please see Section 12.

Section 3

1. Requires five-year financial projections in the annexation report for expenditures made for the provision of city services to the annexed areas for the annexation report required for small-city annexations.
2. Requires the extension of water and sewer lines to the property owners in the area being annexed within 3 years. If the extension would be environmentally damaging due to the unique topography or environmental qualities of the area, the municipality can agree to provide septic maintenance and repair until the sewer service is available.

Section 4

1. Allows for the annexation of "doughnut holes," areas completely surrounded by the municipality's corporate limits.
2. Prohibits the use of a street or street right-of-way, as a "shoestring connection," to establish contiguity to an outlying, noncontiguous area.
3. Requires at least 1/5 of the aggregate external boundaries of the proposed annexation area to coincide with the municipal boundary.
4. Prohibits annexation of an area already served by a water and sewer system operated by a municipality other than the annexing municipality, unless the annexing municipality is involved in the provision of the water and sewer through any of the following:
 - a. An annexation agreement.
 - b. An interlocal agreement to which the annexing municipality is a party.
 - c. A joint agency or authority of which the annexing municipality is a full participating member.

5. Allows the use of the population density of at least two and three-tenths persons for each acre of land in determining development for urban purposes and requires development for 65% of lots and tracts zoned for certain purposes with 60% of lots and tracts of 2.5 acres or less.
6. Adds an additional option for determining urban density of an area with at least 2.3 persons per acre.
7. Prohibits splitting of subdivisions by annexation. Clarifies that each individual phase of a subdivision is a subdivision which cannot be split.

Section 5

1. Requires a municipality to pass a resolution of consideration identifying the area to be annexed. The resolution remains effective for two years after its adoption. Any new resolution of consideration adopted before this expiration will relate back to the date of the initial resolution. Notice of the resolution must be published on the same day, once a week, for two consecutive weeks. The second notice cannot be more than 30 days after the adoption of the resolution. The notice must contain a map or description of the area to be annexed and a summary of the annexation procedure and timelines.
2. Requires the resolution of intent to be adopted at least one year after the adoption of the resolution of consideration.
3. Requires that notice for the public hearing be published on the same day of the week each time it appears, and requires the notice to contain a summary of annexation timelines and procedures, a summary of available statutory remedies for contesting annexation and the failure to provide remedies, and information on how to request tap-on to the water and sewer system, including the cost and request forms.
4. Requires that the notice of the public informational meeting and public hearing be a joint notice and include all of the following:
 - The date, hour, and place of the public informational meeting and the date, hour, and place of the public hearing.
 - The boundaries of the area proposed for annexation and a legible map of the area.
 - State that the report prepared by the city will be available at the office of the municipal clerk at least 30 days prior to the date of the public informational meeting.
 - Include a notice of the property owner's rights to receive water and sewer service.
 - A summary of the annexation process with time lines and a summary of available statutory remedies for contesting the annexation and the failure to provide services shall be distributed at the public informational meeting.
 - Include information on how to request water service or sewer service, the cost of request that service and possible methods of paying that cost, and any request forms and customer policies on that service.
5. Requires the effective date of the annexation be the June 30 following the adopting of the annexation ordinance. Makes a conforming change to delete language regarding property taxes for annexation occurring between January 1 and June 30.
6. Makes a conforming tax change.
7. Requires the municipality to report within 90 days of the annexation to the Local Government Commission (LGC) whether police protection, fire protection, solid waste, or street maintenance services were provided within 60 days after the annexation.

8. Increases the amount of time for property owners to petition the LGC for an abatement of property taxes for cities that fail to provide police, fire, solid waste and street maintenance services within the 60 day time period to 120 days from 90 days.
9. Requires the municipality to report to the Local Government Commission (LGC) whether water and sewer lines were provided within 3 years after the annexation, and allows 120 day period for appeal by the property owner for abatement of property taxes.

Section 6

1. Increases the time for challenging an annexation in court from 60 days to 90 days.
2. Allows the municipality to delay the effective date of annexations subject to appeal to the June 30 following the final judgment.
3. Adds a fourth category of information on which the court can accept argument – that the municipality has proven the municipality is providing meaningful service to the property owners.

Section 7.(a)

Amends the title of Part 3 of Article 4A of Chapter 160A to raise the large city annexation population limit from 5,000 to 10,000.

Section 7.(b)

1. Increases the threshold for large-city annexation from a population of 5,000 or more, to a population of 10,000 or more. The following cities would be affected by this change, as their population in 2000 was between 5,000 and 10,000 persons: Archdale, Belmont, Bessemer City, Black Mountain, Brevard, Butner, Carolina Beach, Cherryville, Clinton, Conover, Davidson, Edenton, Elon, Fletcher, Forest City, Gibsonville, Hamlet, Harrisburg, Hillsborough, Kill Devil Hills, King, Knightdale, Marion, Mebane, Mills River, Morehead City, Oak Island, Oxford, Pineville, Pleasant Garden, Rockingham, Roxboro, Sawmills, Selma, Siler City, Spring Lake, Summerfield, Trinity, Unionville, Wadesboro, Washington, Waynesville, Wendell, Wesley Chapel, Whiteville, Williamston, Winterville.
2. Prohibits city-initiated annexation by cities that do not provide at least two meaningful services. For the definition of "meaningful services, please see Section 12.

Section 8.

1. Requires the extension of water and sewer lines to the property owners in the area being annexed within 3 years. If the extension would be environmentally damaging due to the unique topography or environmental qualities of the area, the municipality can agree to provide septic maintenance and repair until the sewer service is available. Requires the annexation report to include five-year financial projections for expenditures made for the provision of city services to the annexed areas.

Section 9.

1. Allows for the annexation of "doughnut holes," areas completely surrounded by the municipality's corporate limits.
2. Prohibits the use of a street or street right-of-way as a "shoestring connection" to establish contiguity to an outlying, noncontiguous area.

3. Requires at least 1/5 of the aggregate external boundaries of the proposed annexation area to coincide with the municipal boundary.
4. Amends standards for areas developed for urban purposes by requiring 2.5 persons per acre in certain situations, and requiring development for 65% of lots and tracts of 2.5 acres or less.
5. Prohibits splitting of subdivisions for annexation. Clarifies that each individual phase of a subdivision is a subdivision which cannot be split.

Section 10.

1. Requires a resolution of consideration identifying the area to be annexed. The resolution remains effective for two years after its adoption. Any new resolution of consideration adopted before this expiration will relate back to the date of the initial resolution. Notice of the resolution must be published on the same day, once a week, for two consecutive weeks. The second notice cannot be more than 30 days after the adoption of the resolution. The notice must contain a map or description of the area to be annexed and a summary of the annexation procedure and timelines.
2. Requires the resolution of intent to be adopted at least one year after the adoption of the resolution of consideration.
3. Requires the municipality to provide at the public meeting and the public hearing the following information regarding water and sewer service:
 - a. Requests for extending water and sewer lines does not waive the right to contest the annexation.
 - b. The municipality's policy for financing the cost of the extension and the statutory time line for completion.
 - c. The municipality's policy, including the time line, for the extension of water and sewer or property that does not request an individual extension.
4. Requires that notice for the public hearing be published on the same day of the week each time it appears, and requires the notice to contain a summary of annexation timelines and procedures, a summary of available statutory remedies for contesting annexation and the failure to provide services, and a copy of the form for requesting extension water and sewer lines to individual lots.
5. Requires that a summary of annexation timelines and procedures, and a summary of available statutory remedies for contesting annexation and the failure to provide services be provided at the public hearing and public meeting.
6. Requires that the notice of the public informational meeting and public hearing be a joint notice and include all of the following:
 - The date, hour, and place of the public informational meeting and the date, hour, and place of the public hearing.
 - The boundaries of the area proposed for annexation and a legible map of the area.
 - State that the report prepared by the city will be available at the office of the municipal clerk at least 30 days prior to the date of the public informational meeting.
 - Include a notice of the property owner's rights to receive water and sewer service.
 - A summary of the annexation process with time lines and a summary of available statutory remedies for contesting the annexation and the failure to provide services shall be distributed at the public informational meeting.

- Include information on how to request water service or sewer service, the cost of request that service and possible methods of paying that cost, and any request forms and customer policies on that service.
7. Requires the effective date of the annexation be the June 30 following the adopting of the annexation ordinance. Makes a conforming change to delete language regarding property taxes for annexation occurring between January 1 and June 30.
 8. Makes a conforming tax change.
 9. Requires the municipality to report to the LGC whether valid requests for water and sewer extensions were completed within the required 3 year time period.
 10. Requires the municipality to report within 90 days of the annexation to the LGC whether police protection, fire protection, solid waste, or street maintenance services were provided within 60 days after the annexation.
 11. Increases the amount of time for property owners to petition the LGC for an abatement of property taxes for cities that fail to provide police, fire, solid waste and street maintenance services within the 60 day time period to 120 days from 90 days.
 12. Requires the municipality to report to the Local Government Commission (LGC) whether water and sewer lines were provided within 3 years after the annexation, and allows 120 day period for appeal by the property owner for abatement of property taxes.

Section 11. Amends large-city annexation in the following ways:

1. Increases the time for challenging an annexation to from 60 days to 90 days.
2. Allows the municipality to delay the effective date of annexations subject to appeal to the June 30 following the final judgment.
3. Adds a fourth category of information on which the court can accept argument – that the municipality has proven the municipality is providing meaningful service to the property owners.

Makes other related changes:

Section 12.

Adds a new definition of "meaningful services" to apply in all of Article 4A of Chapter 160A, and makes conforming changes. "Meaningful services" is defined as any one of the following: police, fire, solid waste collection, street maintenance, water, sewer.

Section 13.(b)

Establishes a procedure for the registered voters of a municipality or proposed annexation area to call for referendum on the proposed annexation. At least 15% of the total of the registered voters of the municipality and proposed annexation area would have to sign a petition requesting the referendum. If petition is verified as valid by the board of elections, the referendum would be held at the same time as the next general municipal election, unless the municipality was on an election of more than 2 years, in which the referendum would be held at the same time as the next general countywide election. All registered voters of the municipality and the proposed annexation area would be permitted to vote on the referendum. If the referendum passes, the municipality could

proceed with the annexation. If the referendum fails, the municipality could not begin a separate involuntary annexation of the proposed annexation area for 60 months. If the referendum results in a tie, the municipality could not proceed with the annexation or begin a separate involuntary annexation of the proposed annexation area for 60 months.

Section 13.(c)

Adds a new section to the law directing the Local Government Commission to provide oversight of annexation. The LGC is required to assess the fiscal feasibility of each involuntary annexation, and may delegate this responsibility to LGC staff. If a municipality involuntarily annexed an area and did not provide the stated services within 3 years, the LGC is required to abate all ad valorem property taxes and prohibit further annexation by that municipality until the municipality provides the stated services.

Section 14.

Authorizes municipalities to enter into contracts to extend water and sewer service to specific property in return for the owners agreeing to petition the city for annexation upon request, or for the owners to agree not to appeal an attempt by the city to annex the property.

Section 15.

Provides property owners may pay water and sewer assessments pursuant to a city-initiated annexation over 20 years. Also allows tap fees to be paid over a 5 year period.

Section 16.

Requires priority in the awarding of Community Development Block Grants administered by the Department of Commerce be given to projects located in areas annexed by a municipality in order to provide water or sewer services to low-income residents.

Section 17.

Allows priority points be assigned for awarding loans or grants from the Wastewater Reserve or the Drinking Water Reserve Funds administered by the Division of Air Quality and the Division of Environmental Health for projects located in areas annexed by a municipality in order to provide water or sewer services to low-income residents.

This bill becomes effective October 1, 2009, and applies to annexations for which a resolution of intent has been adopted under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes on or after that date and to annexation for which a petition has been received under Part 1 or Part 4 of Article 4A of Chapter 160A of the General Statutes on or after that date. This summary was adopted from the bill analysis prepared by committee counsel.

ASSUMPTIONS AND METHODOLOGY:

The estimated fiscal impact on the Local Government Commission and the State Board of Elections is explained below. This fiscal note does not, however, discuss any additional cost that the municipalities may incur as a result of the implementation of this bill.

Local Government Commission

Section 13.(c) adds a new section to Part 5 of Article 4A of Chapter 160A to direct the Local Government Commission (LGC) to provide oversight of annexations. The LGC is required to assess the fiscal feasibility of each involuntary annexation by determining whether the projected expenses to be incurred (including the amount of proposed debt) are reasonable and whether the projected net revenue will be sufficient to meet the projected expenses.

If a municipality involuntarily annexed an area and did not provide the stated services within 3 years, the LGC is required to abate all ad valorem property taxes and prohibit further annexation by that municipality until the municipality provides the stated services. Also, if a municipality has not provided services as statutorily required to any other area annexed with an effective date more than 12 months prior to the proposed annexation, the LGC is to prohibit further annexation until the municipality demonstrates compliance.

The LGC may delegate this responsibility to LGC staff. HB 524 also authorizes the LGC to charge a reasonable fee to recover the cost for services rendered in connection with the fiscal responsibility review.

G.S. 160A-35 and G.S. 160A-47 require each municipality that exercises statutory authority to involuntarily annex an area to prepare a report that sets forth the plans for the extension of meaningful services to the area proposed to be annexed. Among other requirements, the report must include the method under which the municipality plans to finance the extension of services as well as a statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates. Following approval of the report, the municipality must submit it to the LGC which then must review the reports to make an administrative determination regarding the fiscal feasibility of the proposed annexation within 60 days.

Expenses

The LGC estimates that it will need two additional accountant positions at a total cost of \$176,940 recurring and \$13,000 nonrecurring for the first year to accomplish the fiscal responsibility reviews required by HB 524. The total cost includes \$140,000 for salaries (\$70,000 for each position); \$10,710 for Social Security at 7.65%; \$8,274 for Hospitalization; \$11,956 for Retirement at 8.54%; and \$6,000 for travel. The \$13,000 in nonrecurring cost is for furniture and equipment.

To make the administrative determination regarding the fiscal feasibility, the LGC will verify data in the reports. Some of the data will come from the annual audit reports which the LGC will have, but other data will need to be verified from other sources. The LGC will also evaluate assumptions made about revenues and costs and also verify current data. The reviews will require communication with local officials as well as consideration of any comments from opponents to the proposed annexation. Site visits may also be required in some cases to verify data and to confirm that required services are being provided.

The LGC based its needs for 2 accountants upon data shared by the NC League of Municipalities. According to the LGC, the League reported from its most recent data, that there were 4,116 annexations during the period July 1, 1999 to June 30, 2004. Of these annexations, 3,481 were petition annexations, 565 were city initiated annexations, and 70 were legislative annexations. The LGC would only review the city initiated annexations. Based upon 565 city initiated annexations over a five-year period, the LGC estimates that they will conduct 10 reviews per month.

The estimate provided by the LGC appears reasonable. Assuming each of the positions has approximately 1,800 governmental work hours per year to devote to the reviews, approximately 30 hours would be devoted to each review (1,800 hours/year * 2 positions / 120 reviews per year). Considering the nature of the fiscal data to be verified and the fiscal analysis that is required, 30 hours per review is not unreasonable. Experience with implementation of the bill will provide a much better estimate of the time requirements and the number of annexations for which there must be a review by the LGC.

Revenue

The bill authorizes, but does not require, the LGC to charge a fee to recover the cost of services rendered in connection with the fiscal feasibility review. The LGC is considering establishing a flat fee of \$1,600 for each annexation. If there are 120 annexations annually, this would equate to \$192,000 in revenue which is sufficient to cover estimated costs in FY 09-10 and FY 10-11. If costs expand as projected, the LGC may elect to increase the fee to cover total expenses in subsequent years. Currently, the LGC receives a General Fund appropriation. However, a portion of the local sales taxes is withheld to reimburse the General Fund for any amount appropriated to the LGC. Thus, absent legislation otherwise, any appropriation from the General Fund for these positions will also be reimbursed from sales tax revenue, resulting in no impact to the General Fund.

State Board of Elections

Section 13.(b) adds a new section to Part 5 of Article 4A of Chapter 160A to establish a procedure for the registered voters of a municipality or proposed annexation area to call for referendum on the proposed annexation.

According to the State Board of Elections, the implementation of House Bill 524 will have negligible fiscal impact on the State Board or the county boards of election. There will be a minimal impact associated with expenses incurred by the county boards of elections for their review, legal notices, poll workers, rents of polling locations and other costs involved in running an election. Since the issue would be placed on the ballot with other issues and elections, the costs would be variable dependent on the county, number of issues on the involved ballot, number of voters, etc. These expenses would be reimbursable to the county boards of elections by the involved municipality or governing body.

SOURCES OF DATA: State Board of Elections, Department of State Treasurer

TECHNICAL CONSIDERATIONS: None

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DATE: July 14, 2009



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