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Summary: Annexation proposals

**HISTORY OF LEGISLATIVE ACTIONS**

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12/9/2009 Senate Referred to Committee on **Judiciary**

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**VERSIONS OF THIS BILL**

[12/9/2009](file:///p:\pprever\2009-10\982_20091209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 5‑3‑145 SO AS TO REQUIRE A “PLAN OF SERVICES” BEFORE APPROVAL OF ALL ANNEXATION PROPOSALS; BY ADDING SECTION 5‑3‑160 SO AS TO REQUIRE A NEW ANNEXATION BE CONSISTENT WITH LOCAL COMPREHENSIVE LAND USE PLANS; TO AMEND SECTION 5‑3‑150, RELATING TO ALTERNATE METHODS WHERE A PETITION IS SIGNED BY ALL OR SEVENTY‑FIVE PERCENT OF LANDOWNERS, SO AS TO GIVE STANDING TO OTHER PERSONS OR ENTITIES TO BRING SUIT TO CHALLENGE A PROPOSED OR COMPLETED ANNEXATION, REQUIRE PUBLIC NOTICE OF A PUBLIC HEARING WHICH IS REQUIRED BEFORE ACTING ON AN ANNEXATION PETITION; AND TO AMEND SECTION 5‑3‑305, RELATING TO DEFINITIONS USED IN ANNEXATION PROCEDURE, SO AS TO DEFINE “URBAN AREA” AND CHANGE THE DEFINITION OF “CONTIGUOUS”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 5 of the 1976 Code is amended by adding:

“Section 5‑3‑145. (A) Before the completion of an annexation, the annexing municipality shall prepare and present to the public a ‘plan of services’ for extending municipal services including, but not limited to, sewer, water, ambulance, police protection, fire protection, electricity, solid waste collection, recycling, and education services to that area. The plan of services must be made available to the public, in writing, no less than thirty days before a scheduled public hearing concerning the proposed annexation.

(B) The ‘plan of services’ must contain:

(1) a timetable for municipal services to be extended and delivered to the newly annexed area;

(2) a detailed estimate of the costs to deliver municipal services to the newly annexed area;

(3) a financial plan for covering the costs associated with the extensions of municipal services;

(4) a map or maps of the municipality and adjacent territory to show:

(a) the present and proposed boundaries of the municipality;

(b) present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of the mains and outfalls as required in item (6); and

(c) general land use pattern in the area to be annexed;

(5) a statement demonstrating that the area to be annexed meets the requirements of Section 5‑3‑305(2);

(6) a statement setting forth the plans and timetable of the municipality for extending to the area to be annexed each major municipal service performed within the municipality or on behalf of the municipality at the time of annexation. These plans specifically must:

(a) provide for extending ambulance, police protection, fire protection, electricity, solid waste collection, recycling, and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as these municipal services are provided within the rest of the municipality before annexation. A contract with a rural fire department to provide fire protection is an acceptable method of providing fire protection. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until a time as waterlines are made available in the area under existing municipal policies for the extension of waterlines. A contract with a private firm to provide solid waste collection services must be an acceptable method of providing solid waste collection services;

(b) provide for extension of major trunk water mains and sewer outfall lines into the area to be annexed so that when these lines are constructed, property owners in the areas to be annexed are able to secure public water and sewer service, according to the policies in effect in the municipality for extending water and sewer lines to individual lots or subdivisions. In areas where the municipality is required to extend sewer service according to its policies, but if the installation of sewer is not economically feasible due to the unique topography of the area, the municipality shall provide septic system maintenance and repair service until such time as sewer service is provided to properties similarly situated;

(c) set forth a proposed timetable for construction of these mains, outfalls, and lines as soon as possible following the effective date of annexation if extension of major trunk water mains, sewer outfall lines, sewer lines, and waterlines is necessary. These plans must call for construction to be completed within two years of the effective date of annexation; and

(d) set forth the method under which the municipality plans to finance extension of services into the area to be annexed;

(7) a statement of the impact of the annexation on a special purpose district providing municipal service in the area to be annexed and a statement of the impact of the annexation on special purpose district rates in the area to be annexed. The special purpose district shall make available to the municipality, not later than thirty days following a written request from the municipality, all information in its possession or control including, but not limited to, operational, financial, and budgetary information, necessary for preparation of a statement of impact. The special purpose district forfeits its rights if it fails to make a good faith response within forty‑five days following receipt of the written request for information from the municipality, provided that the municipality’s written request states this by specific reference to this section;

(8) a statement developed in conjunction with the school district or districts that would be impacted by the annexation proposal that analyzes the primary and secondary impact the proposed annexation would have on a school district or districts, including the sufficiency of existing resources to support the annexation proposal;

(9) a statement demonstrating that the proposal complies with the priority investment element of the comprehensive plan;

(10) a statement demonstrating how the proposed annexation affects the municipality’s finances and services; and

(11) an analysis of the annexation’s impact on road use and maintenance.”

SECTION 2. Chapter 3, Title 5 of the 1976 Code is amended by adding:

“Section 5‑3‑160. Before a municipality may annex property, the annexing municipality and the county where the property to be annexed is located shall ensure that the annexation proposal is consistent and compatible with the local comprehensive plans of both the county and the annexing municipality. The findings of the annexing municipality and the county must be made available to the public, in writing, at the public hearing required in Sections 5‑3‑150(A)(6) and 5‑3‑150(C)(6).”

SECTION 3. Section 5‑3‑150 of the 1976 Code is amended to read:

“Section 5‑3‑150. ~~(1)~~(A) ~~Any~~ Area or property which is contiguous to a municipality may be annexed to the municipality by filing with the municipal governing body a petition signed by seventy‑five percent or more of the freeholders, as defined in Section 5‑3‑240, owning at least seventy‑five percent of the assessed valuation of the real property in the area requesting annexation. Upon the agreement of the governing body to accept the petition and annex the area, and the enactment of an ordinance declaring the area annexed to the municipality, the annexation is complete. ~~No~~ A member of the governing body who owns property or stock in a corporation owning property in the area proposed to be annexed is not eligible to vote on the ordinance. This method of annexation is in addition to ~~any~~ other methods authorized by law; however, this property may not be annexed unless the following has been complied with:

(1) the petition must be dated before the first signature is affixed to it and all necessary signatures must be obtained within six months from the date of the petition;

(2) the petition and all signatures to it are open for public inspection at any time on demand of ~~any~~ a resident of the municipality or area affected by the proposed annexation or by ~~anyone~~ a person owning property in the area to be annexed;

(3) the petition must state the act or code section pursuant to which the proposed annexation is to be accomplished;

(4) the petition must contain a description of the area to be annexed and there must be attached to the petition a plat of the area to be annexed;

(5) the municipality, ~~or any~~ a resident of ~~it and any~~ the annexing municipality, a person residing in the area to be annexed or owning real property of it, an owner of property adjoining the boundaries of the property to be annexed, an electric supplier having service rights in the area proposed to be annexed, and all affected governmental entities capable of demonstrating that the proposed annexation will have a direct fiscal impact on its provision of services may institute and maintain a suit in the court of common pleas, and in that suit the person may challenge and have adjudicated ~~any~~ an issue raised in connection with the proposed or completed annexation; and

(6) not less than thirty days before acting on an annexation petition, the annexing municipality ~~must~~ shall give notice of a public hearing by publication in a newspaper of general circulation in the community, by posting the notice of the public hearing on the municipal bulletin board, and by written notification to the taxpayer of record of all properties within the area proposed to be annexed, to the chief administrative officer of the county, to all public service or special purpose districts, and all fire departments, whether volunteer or full time. This public hearing must include a map of the proposed annexation area, a complete legal description of the proposed annexation area, a statement as to what public services are to be assumed or provided by the municipality, and the taxes and fees required for these services. The notice must include a projected timetable for the provision or assumption of these services.

~~(2)~~(B) The conditions relating to petitions ~~set forth~~ provided for in this section apply only to the alternate method of annexation as defined in subsection ~~(1)~~ (A) of this section.

~~(3)~~(C)(1) Notwithstanding the provisions of subsections ~~(1)~~ (A) and ~~(2)~~ (B) of this section, any area or property which is contiguous to a municipality may be annexed to the municipality by filing with the municipal governing body a petition signed by all persons owning real estate in the area requesting annexation. Upon the agreement of the governing body to accept the petition and annex the area, and the enactment of an ordinance declaring the area annexed to the municipality, the annexation is complete. ~~No~~ A member of the governing body who owns property or stock in a corporation owning property in the area proposed to be annexed is not eligible to vote on the ordinance. This method of annexation is in addition to ~~any~~ other methods authorized by law.

(2) For purposes of this subsection, the municipality, a resident of the annexing municipality, a person residing in the area to be annexed or owning real property of it, an owner of property adjoining the boundaries of the property to be annexed, an electric supplier having service rights in the area proposed to be annexed, and all affected governmental entities capable of demonstrating that the proposed annexation will have a direct fiscal impact on its provision of services may institute and maintain a suit in the court of common pleas, and in that suit the person may challenge and have adjudicated any issue raised in connection with the proposed or completed annexation.

(3) For purposes of this subsection, not less than thirty days before acting on an annexation petition, the annexing municipality shall give notice of a public hearing by publication in a newspaper of general circulation in the community, by posting the notice of the public hearing on the municipal bulletin board, and by written notification to the taxpayer of record of all properties within the area proposed to be annexed, to the chief administrative officer of the county, to all public service or special purpose districts, and all fire departments, whether volunteer or full time. This public hearing must include a map of the proposed annexation area, a complete legal description of the proposed annexation area, a statement as to what public services are to be assumed or provided by the municipality, and the taxes and fees required for these services. The notice must include a projected timetable for the provision or assumption of these services.

~~(4)~~(D) For purposes of this section, ~~any~~ a real property owned by a governmental entity and leased to ~~any other~~ another entity pursuant to a fee in lieu of taxes transaction under Section 4‑29‑67 or 4‑29‑69 is considered to have an assessed valuation equal to the original cost of the real property as determined under Section 4‑29‑67(D). For purposes of this section, the lessee of real property pursuant to a fee in lieu of taxes transaction under Section 4‑29‑67 or 4‑29‑69 is the freeholder with respect to the property.

~~(5)~~(E) For purposes of this section, ~~any~~ a real property included within a multicounty park under Section 4‑1‑170 is considered to have the same assessed valuation that it would have if the multicounty park did not exist. Notwithstanding ~~any other~~ another provision of law, ~~any~~ a real property which is or has been included within a multicounty park under Section 4‑1‑170 and title to which is held by the State of South Carolina, only may be annexed with prior written consent of the State of South Carolina, and when title to real property in the park is held by a political subdivision of the State, the property may be annexed only with prior written consent of the governing body of the political subdivision holding title.”

SECTION 4. Section 5‑3‑305 of the 1976 Code is amended to read:

“Section 5‑3‑305. For purposes of this chapter~~,~~:

(1) ‘Contiguous’ means property which is adjacent to a municipality and shares ~~a continuous~~ at least a sixty percent border with the municipality and is an urban area as defined in this chapter. Contiguity is not established by a road, waterway, right of way, easement, railroad track, marshland, or utility line which connects one property to another; however, if the connecting road, waterway, easement, railroad track, marshland, or utility line intervenes between two properties, which but for the intervening connector would be adjacent and share a continuous border, the intervening connector does not destroy contiguity.

(2) ‘Urban area’ means an area that meets any one of the following standards:

(a) has a total resident population equal to at least two and three‑tenths persons for each acre of land included within its boundaries;

(b) has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent of the total acreage consists of lots and tracts three acres or less in size and such that at least sixty‑five percent of the total number of lots and tracts are one acre or less in size;

(c) is so developed that at least sixty percent of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts three acres or less in size. For purposes of this section, ‘used for residential purposes’ means any lot or tract five acres or less in size on which is constructed a habitable dwelling unit. For purposes of this section, a lot or tract may not be considered in use for a commercial, industrial, institutional, or governmental purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or insubstantial basis in relation to the size and character of the lot or tract. For purposes of this section, acreage in use for commercial, industrial, institutional, or governmental purposes includes acreage actually occupied by buildings or other man‑made structures together with all areas that are reasonably necessary and appurtenant to these facilities for purposes of parking, storage, ingress and egress, utilities, buffering, and other ancillary services and facilities; or

(d) is so developed that, at the time of the annexation report, all tracts in the areas to be annexed are used for commercial, industrial, governmental, or institutional purposes.”

SECTION 5. This act takes effect upon approval by the Governor.

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