

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 233
HOUSE BILL 738

AN ACT TO AUTHORIZE ORANGE COUNTY AND MUNICIPALITIES IN THAT
COUNTY TO ENGAGE IN JOINT PLANNING PROGRAMS AND TO ENTER
INTO ANNEXATION AGREEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of Chapter 160A of the General Statutes is amended to add a new section to read:

"§ 160A-360.1. **Joint Planning.**—(a) A city and a county may agree that, within a mutually agreed upon geographical area (hereinafter, the 'joint planning area') all of the powers granted by this Article, including without limitation powers involving the exercise of legislative discretion, may be exercised by the city on behalf of the county, by the county on behalf of the city, or jointly by both the city and county. By way of illustration without limitation, a city and county may agree that, within a defined joint planning area, the city may adopt the text of a zoning or subdivision ordinance on behalf of the county and may administer and enforce such ordinance, but that all decisions establishing or amending the zoning classifications of properties shall be jointly determined by the two governing bodies.

(b) Any agreement authorized under subsection (a) shall be reduced to writing and shall be ratified by resolution of the governing body of each unit that is a party to the agreement. The agreement shall specify:

- (1) The area or areas within which the power specified in the agreement are to be exercised.
- (2) The powers that are to be exercised and the manner in which the powers are to be exercised by the parties (i.e., one unit on behalf of another or jointly).
- (3) The duration of the agreement.
- (4) The methods for amending the agreement (including the area within which the agreement will be effective) and terminating the agreement.

(c) If the city exercises any legislative or administrative powers or functions on behalf of a county under this section, then the agreement authorized under subsection (b) may provide for a means of representation of residents of the joint planning area in the same manner and to the same extent as representation of residents of an extraterritorial planning area is provided for under G.S. 160A-362.

(d) In exercising any power or function authorized under an agreement adopted pursuant to the section, a city or county governing board or administrative agency may

exercise that power or function in accordance with such boards or agency's regular procedures and voting requirements."

Sec. 2. Article 4A of Chapter 160A of the General Statutes is amended by adding a new Part 6 to read as follows:

"Part 6.

"Interlocal Agreements Limiting Annexation Authority.

"§ 160A-58.20. **Interlocal Agreements Limiting Annexation Authority.**—(a) The following terms shall have the meaning indicated when used in this section.

- (1) 'Agreement.' An agreement authorized under subsection (b) of this section.
- (2) 'Involuntary annexation.' Annexation authorized or undertaken pursuant to Parts 2 or 3 of this Article.
- (3) 'Voluntary annexation.' Annexation authorized or undertaken pursuant to G.S. 160A-31, or Part 4 of this Article.

(b) Two or more municipalities or one or more municipalities and one or more counties may enter into binding written agreements with each other to set forth areas or boundaries within which or beyond which one or more of the participating municipalities will refrain from engaging in annexation (voluntary, involuntary, or both). Such agreements shall be of reasonable duration, not to exceed 20 years.

(c) Before engaging in involuntary annexation, a municipality that is a party to an agreement shall send to the chief administrative official of every other party to such agreement a copy of the notice of intent to annex territory specified in G.S. 160A-38(a) or 160A-49(a) (as applicable). Before engaging in voluntary annexation, a municipality that is a party to an agreement shall send to each other party to the agreement a copy of the statutorily required notice of public hearing on such proposed voluntary annexation. A failure to send the notice required herein shall render any annexation undertaken in disregard of this requirement null and void with respect to any property covered under an agreement.

(d) If, on or before the date of a public hearing on voluntary annexation, an annexing municipality that is a party to an agreement receives from another party to such agreement a written statement protesting the proposed annexation on the basis of an alleged violation of such agreement, then an annexation ordinance adopted by the annexing municipality may not make the annexation effective sooner than 30 days following the date of the adoption of such ordinance.

(e) Monetary damages shall not constitute a remedy for breach of any agreement. However, an alleged breach of such agreement may be redressed as provided in this subsection.

- (1) Any party to an agreement entered into under this section who believes that another party has adopted an involuntary annexation ordinance in violation of the agreement may appeal the annexation in the manner set forth in G.S. 160A-38 or G.S. 160A-50 (as appropriate), except that the petitioning party to such an agreement need not demonstrate material injury or prejudice beyond the violation of the agreement. If the court concludes that the agreement has been violated, it shall, in

addition to any other appropriate remedy, remand the ordinance to the municipal governing board for amendment of the annexation boundaries to exclude the area included in violation of the agreement.

- (2) Any party to an agreement who believes that another party has adopted a voluntary annexation ordinance in violation of the agreement may, not later than 30 days after the adoption of any such ordinance, file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board adopting such ordinance.
 - a. Such petition shall explicitly state what exceptions are taken to the action of the governing body and what relief the petitioner seeks. Within 5 days after the petition is filed with the court, the party seeking review shall serve copies of the petition by certified mail, return receipt requested, upon the annexing municipality.
 - b. Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court a copy of the annexation petition as well as a copy of the annexation ordinance and any other minutes or documents that constitute the record of the annexation procedure.
 - c. The court shall fix the date for review of annexation proceedings under this Part, which review shall preferably be within 30 days following the date of the petition to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to determine whether there has been a violation of an agreement authorized under this section.
 - d. If the court determines that there has been a violation of an annexation agreement, it shall declare the annexation null and void and may order any additional relief that appears appropriate.
 - e. If an area that has been voluntarily annexed is the subject of an appeal to the superior court or appellate division on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior court or appellate division, whichever is appropriate."

Sec. 3. This act shall apply only to Orange County and to municipalities located within that county.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of May, 1987.