

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 535

Short Title: Richmond Annexation Agreements.

(Local)

Sponsors: Representative Dawkins.

Referred to: Government.

March 13, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF HAMLET AND THE CITY OF  
ROCKINGHAM TO ENTER INTO AGREEMENTS CONCERNING  
ANNEXATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 4A of Chapter 160A of the General Statutes is amended by  
adding a new Part to read:

**“PART 6. ANNEXATION AGREEMENTS.**

**“§ 160A-58.21. Purpose.**

It is the purpose of this Part to authorize cities to enter into binding agreements  
concerning future annexation in order to enhance orderly planning by such cities as well  
as residents and property owners in areas adjacent to such cities.

**“§ 160A-58.22. Definitions.**

The words defined in this section shall have the meanings indicated when used in  
this Part:

(1) ‘Agreement’ means any written agreement authorized by this Part.

(2) ‘Annexation’ means any extension of a city’s corporate limits as  
authorized by this Article, the charter of the city, or any local act  
applicable to the city, as such statutory authority exists now or is  
hereafter amended.

(3) ‘Participating city’ means any city which is a party to an agreement.

**“§ 160A-58.23. Annexation agreements authorized.**

Two or more cities may enter into agreements in order to designate one or more  
areas which are not subject to annexation by one or more of the participating cities. The

1 agreements shall be of reasonable duration, not to exceed 30 years, and shall be  
2 approved by ordinance of the governing board and executed by the mayor of each city  
3 and spread upon its minutes.

4 **"§ 160A-58.24. Contents of agreements.**

5 (a) The agreement shall:

6 (1) State the duration of the agreement.

7 (2) Describe clearly the area or areas subject to the agreement. The  
8 boundaries of such area or areas may be established at such locations  
9 as the participating cities shall agree. Thereafter, any participating city  
10 may follow such boundaries in annexing any property, whether or not  
11 such boundaries follow roads or natural topographical features.

12 (3) Specify one or more participating cities which may not annex the area  
13 or areas described in the agreement.

14 (4) State the effective date of the agreement.

15 (5) Require each participating city which proposes any annexation to give  
16 written notice to the other participating city or cities of the annexation  
17 at least 60 days before the adoption of any annexation ordinance;  
18 provided, however, that the agreement may provide for a waiver of this  
19 time period by the notified city.

20 (6) Include any other necessary or proper matter.

21 (b) The written notice required by subdivision (a)(5) of this section shall describe  
22 the area to be annexed by a legible map, clearly and accurately showing the boundaries  
23 of the area to be annexed in relation to: the area or areas described pursuant to  
24 subdivision (a)(2) of this section, roads, streams and any other prominent geographical  
25 features. Such notice shall not be effective for more than 180 days.

26 (c) No agreement may be entered into under this Part unless each participating  
27 city has held a public hearing on the agreement prior to adopting the ordinance  
28 approving the agreement.

29 (d) Any agreement entered into under this Part may be modified or terminated:

30 (1) As provided by that agreement; or

31 (2) By a subsequent agreement entered into by all the participating cities  
32 to that agreement, unless the agreement specifically prohibits such  
33 amendment or termination.

34 **"§ 160A-58.25. Effect of agreement.**

35 From and after the effective date of an agreement, no participating city may adopt an  
36 annexation ordinance as to all or any portion of an area in violation of the agreement.

37 **"§ 160A-58.26. Part grants no annexation authority.**

38 Nothing in this Part shall be construed to authorize the annexation of any area which  
39 is not otherwise subject to annexation under applicable law.

40 **"§ 160A-58.27. Relief.**

41 (a) Each provision of an agreement shall be binding upon the respective parties.  
42 Within 30 days following the passage of an annexation ordinance concerning territory  
43 subject to an agreement, a participating city which believes that another participating  
44 city has violated this Part or the agreement may file a petition in the superior court of

1 the county where any of the territory proposed to be annexed is located, seeking review  
2 of the action of the city alleged to have violated this Part or the agreement.

3 (b) Within five days after the petition is filed with the court, the petitioning city  
4 shall serve copies of the petition by certified mail, return receipt requested, upon the  
5 respondent city.

6 (c) Within 15 days after receipt of the copy of the petition for review, or within  
7 such additional time as the court may allow, the respondent city shall transmit to the  
8 reviewing court:

9 (1) A transcript of the portions of the ordinance or minute book in which  
10 the procedure for annexation has been set forth;

11 (2) A copy of resolutions, ordinances, and any other document received or  
12 approved by the respondent city's governing board as part of the  
13 annexation proceeding.

14 (d) The court shall fix the date for review of the petition so that review shall be  
15 expeditious and without unnecessary delays. The review shall be conducted by the  
16 court without a jury. The court may hear oral arguments and receive written briefs, and  
17 may take evidence intended to show either:

18 (1) That the provisions of this Part were not met; or

19 (2) That the provisions of the agreement were not met.

20 (d1) At any time before or during the review proceeding, any petitioner may apply  
21 to the reviewing court for an order staying the operation of the annexation ordinance  
22 pending the outcome of the review. The court may grant or deny the stay in its  
23 discretion upon such terms as it deems proper, and it may permit annexation of any part  
24 of the area described in the ordinance concerning which no question for review has been  
25 raised.

26 (e) Upon a finding that the respondent city has not violated this Part or the  
27 agreement, the court may affirm the action of the respondent city without change. Upon  
28 a finding that the respondent city has violated this Part or the agreement, the court may:

29 (1) Remand to the respondent city's governing board any ordinance  
30 adopted pursuant to Parts 2 or 3 of this Article, as the same exists now  
31 or is hereafter amended, for amendment of the boundaries, or for such  
32 other action as is necessary, to conform to the provisions of this Part  
33 and the agreement.

34 (2) Declare any annexation begun pursuant to any other applicable law to  
35 be void. If the respondent city shall fail to take action in accordance  
36 with the court's instructions upon remand under subdivision (e)(1) of  
37 this section within three months from receipt of such instructions, the  
38 annexation proceeding shall be void.

39 (f) Any participating city which is a party to the review proceedings may appeal  
40 from the final judgment of the superior court under rules of procedure applicable in  
41 other civil cases. The appealing party may apply to superior court for a stay in its final  
42 determination, or a stay of the annexation ordinance, whichever shall be appropriate,  
43 pending the outcome of the appeal to the appellate division; provided, that the superior  
44 court may, with the agreement of the parties, permit annexation to be effective with

1 respect to any part of the area concerning which no appeal is being made and which can  
2 be incorporated into the respondent city without regard to any part of the area  
3 concerning which an appeal is being made.

4 (g) If part or all of the area annexed under the terms of a challenged annexation  
5 ordinance is the subject of an appeal to the superior court or appellate division on the  
6 effective date of the ordinance, then the ordinance shall be deemed amended to make  
7 the effective date with respect to such area the date of the final judgment of the superior  
8 court or appellate division, whichever is appropriate, or the date the respondent city's  
9 governing board completes action to make the ordinance conform to the court's  
10 instructions in the event of remand."

11 Sec. 2. This act applies only to the Town of Hamlet and the City of  
12 Rockingham, and only as to territory in Richmond County.

13 Sec. 3. This act is effective upon ratification.