

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

D

SENATE BILL 315
State and Local Government Committee Substitute Adopted 5/7/13
House Committee Substitute Favorable 5/22/13
House Committee Substitute #2 Favorable 6/11/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S315-PCS85248-LB-85

Short Title: Municipal Services.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT WHEN A PROPERLY SUBMITTED VOLUNTARY
2 ANNEXATION PETITION IS DEFEATED BY VOTE OF THE MUNICIPAL
3 GOVERNING BODY THE MUNICIPALITY MUST PROVIDE SOME MUNICIPAL
4 SERVICES UPON PAYMENT OF DEFINED COSTS, TO LEGISLATIVELY ANNEX
5 CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF DURHAM
6 THAT WAS PETITIONED FOR ANNEXATION, AMENDING THE CHARTER OF
7 THE CITY OF DURHAM TO ALLOW THE CITY TO DELAY THE EFFECTIVE DATE
8 OF VOLUNTARY ANNEXATIONS, AND TO AUTHORIZE THE CITY OF DURHAM
9 TO USE DESIGN-BUILD DELIVERY METHODS FOR THE DESIGN AND
10 CONSTRUCTION OF A POLICE HEADQUARTERS AND ANNEX FACILITY, TWO
11 POLICE SERVICE CENTERS, AND A 911 FACILITY, AND AUTHORIZING THE
12 COUNTY OF DURHAM TO CONSTRUCT WATER TREATMENT PLANT AND
13 WASTEWATER TREATMENT PLANT PROJECTS WITHOUT COMPLYING WITH
14 SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL
15 STATUTES, AND CONCERNING NOTES OR DEEDS OF TRUST TO RESERVE
16 WASTEWATER TREATMENT CAPACITY.

17 The General Assembly of North Carolina enacts:

18 **SECTION 1.** Effective June 1, 2013, Part 1 of Article 16 of Chapter 160A of the
19 General Statutes is amended by adding a new section to read:

20 **"§ 160A-328. Provision of municipal services to certain properties.**

21 (a) A municipality shall provide municipal services as defined under subsection (b) of
22 this section to any property if that property owner submitted a petition for voluntary annexation
23 under Article 4A of this Chapter, and the municipal governing board voted on an annexation
24 ordinance for that property but the annexation ordinance failed of adoption. This section applies
25 if the property owner (i) submits to the governing board a notice exercising the provisions of
26 this section within 60 days of this section becoming law and (ii) agrees in writing to all the
27 requirements contained in any utility extension agreement that was presented to the governing
28 board at the same meeting as the annexation that failed of adoption. The municipal governing
29 board may not impose more burdensome requirements or commitments on the property owner
30 that are inconsistent with the requirements and commitments that are contained in the utility
31 extension agreement.
32



* S 3 1 5 - P C S 8 5 2 4 8 - L B - 8 5 *

1 (b) For purposes of this section, prior to the effective date of the annexation of the
2 property, the term "municipal services" only means water or sewer services, but only if the
3 municipality has water or sewer capacity. For purposes of this section, prior to the effective
4 date of annexation, the term "municipal services" specifically does not include any of the
5 following services of the municipality: police protection, fire protection, solid waste services,
6 or street maintenance services.

7 (c) Requirements and commitments contained in the utility extension agreement that
8 was presented to the governing board at the same meeting as the annexation ordinance that
9 failed of adoption shall continue as obligations of the agreement unless the city council relieves
10 the property owner of the requirement or commitment. Those requirements and commitments
11 include, but are not limited to, the committed elements of a development plan in a zoning map
12 case approved by the county where the property is located."

13 **SECTION 2.** Effective June 3, 2023, the corporate limits of the City of Durham are
14 extended by adding the following described property:

15 **COLVARD FARMS TRACT**

16 Beginning at an iron pin at the northeastern corner of the United States of America situated on
17 the western right-of-way of N.C. Highway 751, said point being located N 34 deg.19'27" W,
18 1034.39 ft. from North Carolina Geodic Survey monument "Lucas" having NAD 1983
19 coordinates of North 771,088.0540, and East 2,016,390.0780; thence from the point of
20 Beginning leaving the western right-of-way of N.C. Highway 751 along the northern line of
21 United States of America, S 38 deg.41'06"W, 378.28 ft. to an iron pin; thence S 09
22 deg.12'15"W, 261.17 ft. to an iron pin; thence S 09 deg.12'15"W, 316.59 ft. to an iron pin;
23 thence S 45d eg.38'27"W, 341.73 ft. to a point in the centerline of a stream; thence S 07
24 deg.47'55"W, 517.91 ft. to an iron pin in a Duke Energy Company easement; thence S 70 deg.
25 27'24"W, 211.58 ft. to an iron pin at the northeastern corner of Jeffrey W. Massey; thence
26 along the northern line of Jeffrey W. Massey and Lloyd Allen Massey, N 88 deg.45'27"W,
27 1133.83 ft. to 5/8" diameter iron pipe; thence S 16 deg.24'44"W, 156.24 ft. to a point in the
28 northern line of Cleo Cole, et al; thence S 86 deg.55'26"W, 403.22 ft. to an iron pin; thence
29 leaving the northern line of Cleo Cole, et al, along the eastern line of Colvard Farms
30 Homeowners Association, N 01 deg.49'11"E, 214.46 ft. to an iron pin; thence N 00 deg.
31 30'28"W, 214.46 ft. to an iron pin; thence N 02 deg.41'48"W, 106.32 ft. to a 3/4" diameter iron
32 pipe at the southeastern corner of L&K Properties of NC, LLC; thence along the eastern line of
33 L&K Properties, LLC and Walter J. Kozak, N 04 deg.59'54"W, 421.90 ft. to a 3/4" diameter
34 pipe on the southern line of Millennium Commercial Properties, LLC; thence along the
35 southern line of Millennium Commercial Properties, LLC, N 87 deg.53'31"E, 480.87 ft. to a
36 point; thence N 01 deg. 40'48"E, 97.74 ft. to an iron pin; thence N 88 deg.18'25"E, 4.94 ft. to a
37 point; thence N 00 deg.23'08"E, 22.43 ft. to an iron pin; thence S 87 deg.52'37"W, 257.24 ft. to
38 a 5/8" diameter iron pipe; thence N 17 deg.49'10"W, 650.46 ft. to a 3/4" diameter iron pipe on
39 the southern line of United States of America; thence N 67 deg.58'57"E, 130.79 ft. to a 5/8"
40 diameter pipe; thence N 54 deg.56'04"W, 389.78 ft. to a 5/8" diameter iron pipe; thence N 75
41 deg.06'12"W, 185.89 ft. to a 3/4" diameter iron pipe on the southern line of Southern Durham
42 Development, LLC; thence along the southern line of Southern Durham Development, LLC, S
43 89 deg.29'57"E, 839.78 ft. to a 3/4" diameter iron pipe; thence S 89 deg.56'10"E, 670.70 ft. to
44 an iron pin; thence S 89 deg.09'36"E, 909.21 ft. to a 1" diameter iron pipe; thence S 89
45 deg.07'00"E, 269.18 ft. to a 3/4" diameter iron pipe on the western right-of-way of N.C.
46 Highway 751; thence along the western right-of-way of N.C. Highway 751, S 35 deg.33'20" E,
47 200.13 ft. to an iron pin; said point being the point and place of Beginning; containing 87.125
48 acres and being a parcel situated near the southwestern corner of N.C. Highway 751 and the
49 Chatham County line.

50
51 751 SOUTH ANNEXATION AREA TRACTS/PARCELS

1 A certain tract or parcel of land lying and being in the county of Durham, Triangle Township,
2 North Carolina, being more fully described as follows:
3 Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane
4 values of $y = 236649.284\text{m}$ and $x = 613545.162\text{m}$; thence from said monument $S 30^{\circ}57'01''\text{e}$,
5 for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y
6 $= 236448.339\text{m}$ and $x = 613665.665\text{m}$ and being the true point of beginning; thence in a
7 northeasterly direction, $N 57^{\circ}07'16''\text{e}$, for a distance of 34.66' to a point; thence with the line of
8 the center line of NC Highway 751, $S 32^{\circ}52'44''\text{e}$, for a distance of 1,551.59' to a point; thence
9 in a generally northeasterly direction, $N 57^{\circ}07'16''\text{e}$, for a distance of 32.72' to an existing iron
10 pipe; thence in a southeasterly direction, $S 86^{\circ}16'29''\text{e}$, for a distance of 10.45' to an existing
11 iron pipe; thence with the line of now or formerly Chancellors Ridge HOA, $S 86^{\circ}24'07''\text{e}$, for a
12 distance of 216.17' to an existing iron pipe; thence with the line of now or formerly Mary C.
13 Turner, $S 00^{\circ}26'30''\text{w}$, for a distance of 335.16' to an existing iron pipe; thence in a
14 southwesterly direction, $S 57^{\circ}18'26''\text{w}$, for a distance of 30.52'; thence with the center line of
15 NC Highway 751, $S 32^{\circ}41'34''\text{e}$, for a distance of 118.62' to a point; thence continuing with
16 said line, $S 33^{\circ}02'59''\text{e}$, for a distance of 731.00' to a point; thence continuing with said line, S
17 $32^{\circ}57'53''\text{e}$, for a distance of 415.55' to a point; thence continuing with said line, $S 32^{\circ}56'08''\text{e}$,
18 for a distance of 1,126.65' to a point; thence in a northwesterly direction, $N 89^{\circ}14'00''\text{w}$, for a
19 distance of 36.68' to an existing iron pipe; thence with the line of now or formerly Seven Five
20 One Investments, LLC, $N 89^{\circ}14'00''\text{w}$, for a distance of 268.97' to an existing iron pipe; thence
21 with the line of now or formerly Seven Five One Investments, LLC, $N 89^{\circ}29'56''\text{w}$, for a
22 distance of 1,579.97' to an existing iron pipe; thence with the line of now or formerly Seven
23 Five One Investments, LLC, $n89^{\circ}30'43''\text{w}$, for a distance of 839.77' to an existing iron pipe;
24 thence with the line of now or formerly United States of America, $N 75^{\circ}00'42''\text{w}$, for a distance
25 of 519.06' to an existing concrete monument; thence continuing with said line, $N 30^{\circ}11'02''\text{e}$,
26 for a distance of 1,029.17' to an existing concrete monument; thence continuing with said line,
27 $N 38^{\circ}16'43''\text{w}$, for a distance of 784.32' to an existing iron pipe; thence continuing with said
28 line, $S 86^{\circ}37'55''\text{e}$, for a distance of 642.69' to an existing iron pipe; thence continuing with
29 said line, $N 16^{\circ}46'38''\text{w}$, for a distance of 176.43' to an existing iron pipe; thence with the line
30 of now or formerly United States of America, $N 16^{\circ}47'45''\text{w}$, for a distance of 433.28' to an
31 existing iron pipe; thence continuing with said line, $N 89^{\circ}31'40''\text{w}$, for a distance of 871.70' to
32 an existing iron pipe; thence continuing with said line, $N 38^{\circ}08'32''\text{e}$, for a distance of 416.49'
33 to an existing iron pipe; thence continuing with said line, $N 78^{\circ}44'36''\text{w}$, for a distance of
34 514.35' to an existing iron pipe; thence continuing with said line, $N 16^{\circ}19'20''\text{e}$, for a distance
35 of 927.30' to an existing iron pipe; thence continuing with said line, $N 44^{\circ}29'56''\text{e}$, for a
36 distance of 498.53' to an existing concrete monument; thence continuing with said line, S
37 $73^{\circ}14'47''\text{e}$, for a distance of 857.25' to an existing iron pipe; thence continuing with said line,
38 $S 86^{\circ}33'52''\text{e}$, for a distance of 24.92' to the point and place of beginning, containing 7,426,585
39 square feet or 170.491 acres, more or less according to survey entitled "Land Title Survey
40 Prepared for Southern Durham Development, Inc." dated December 2007 prepared by Jonathan
41 F. Murphy Pls 1-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C.
42 27617, to which reference is made for a more perfect and complete description.

43 Also, a certain tract or parcel of land lying and being in the county of Durham, Triangle
44 Township, North Carolina, being more fully described as follows:

45 Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane
46 values of $y = 236649.284\text{m}$ and $x = 613545.162\text{m}$; thence from said monument $S 30^{\circ}57'01''\text{e}$,
47 for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y
48 $= 236448.339\text{m}$ and $x = 613665.665\text{m}$ and being the true point of beginning; thence with the
49 line of the southwesterly right-of-way of NC Highway 751, $S 32^{\circ}52'44''\text{e}$, for a distance of
50 1,507.27' to an existing iron pipe; thence continuing with said line, $S 32^{\circ}33'08''\text{w}$, for a distance
51 of 210.87' to an existing iron pipe; thence continuing with said line, $S 32^{\circ}41'34''\text{e}$, for a

1 distance of 366.69' to an existing iron pipe in the westerly right-of-way of NC Highway 751;
2 thence in a generally northwesterly direction, N 05°27'49"w, for a distance of 133.40' to an
3 existing iron pipe in the easterly right-of-way of NC Highway 751 and said iron pipe being the
4 point of beginning; thence with the line of the right-of-way of NC Highway 751, N
5 32°37'02"w, for a distance of 414.82' to an existing iron pipe; thence continuing with said line,
6 S 86°16'29"e, for a distance of 10.45' to an existing iron pipe; thence with the line of now or
7 formerly Chancellors Ridge HOA, S 86°24'07"e, for a distance of 216.17' to an existing iron
8 pipe; thence with the line of now or formerly Mary C. Turner, S 00°26'30"w, for a distance of
9 335.16' to the point and place of beginning, containing 37,918 square feet or 0.870 acres, more
10 or less according to survey entitled "Rezoning Plat Prepared for Seven Five One Investments,
11 LLC. of Colvard Farms Property" dated December 2007 prepared by Jonathan F. Murphy Pls
12 1-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C.27617, to
13 which reference is made for a more perfect and complete description.

14 **SECTION 3.** Section 2.3(a) of the Charter of the City of Durham, being Chapter
15 671, Session Laws of 1975, as added by Chapter 342 of the 1993 Session Laws, reads as
16 rewritten:

17 "(a) The provisions of G.S. 160A-31(d), 160A-58.2, and 160A-58.7 notwithstanding, the
18 city council may make annexation ordinances adopted pursuant to Parts 1 or 4 of Article 4A of
19 Chapter 160A of the General Statutes effective on any specified date within ~~three~~10 years from
20 the date of passage of the annexation ordinance."

21 **SECTION 4.** Article 8 of Chapter VI of the Charter of the City of Durham, being
22 Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to
23 read as follows:

24 "Sec. 85.1. Utilization of design-build delivery methods. – (a) The City may award
25 contracts for the design and construction of a police headquarters and annex facility, two police
26 service centers, and a 911 facility without being subject to the requirements of G.S. 133-1,
27 133-2, or 133-3, the provisions of Article 3D of Chapter 143 of the General Statutes, and
28 Article 8 of Chapter 143 of the General Statutes. The authorization granted in this section
29 includes the use of the following methods: design-build; design-build-operate;
30 design-build-operate-maintain; or any combination of design-build, operate, or maintain.

31 (b) The City shall obtain proposals from at least three design-build teams for the
32 projects authorized under subsection (a) of this section. If three proposals are not received and
33 the project has been publicly advertised for a minimum of 30 days, the City may proceed with
34 the proposals received. In evaluating the proposals received, the City may pay the same fixed
35 stipend to short-listed design-build teams for preparation of additional technical proposals if
36 necessary to advance the contract award process. The evaluation of design-build teams and the
37 proposals shall not be exempt from the requirements of the City's Equal Business Opportunity
38 Program Ordinance, created pursuant to the authority granted in Section 84.1 of this Charter, to
39 establish minority and women business participation goals.

40 (c) The City Council shall award the contract to the best qualified design-build team,
41 taking into account the time of completion of the project, the capital and operation and
42 maintenance cost of the project, the technical merits of the proposal, and any other factors and
43 information set forth in the request for proposal that the City determines to have a material
44 bearing on the ability to evaluate any proposal."

45 **SECTION 5.(a)** The County of Durham may contract for the design and
46 construction or design, construction, and operation of water treatment and wastewater treatment
47 plant projects for the purpose of providing services throughout Durham County without being
48 subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and
49 143-64.32. The authorization includes, if deemed appropriate by the Durham County Board of
50 Commissioners, the use of the single-prime contractor method of design and construction, the

1 design-build or design-build-operate method of construction, or a request for proposals and
2 negotiation as an alternative design and construction method.

3 **SECTION 5.(b)** The County of Durham shall obtain proposals from and interview
4 at least three design-build teams, or design-build-operate teams, as appropriate, that have
5 submitted proposals for a water treatment plant or wastewater treatment project. If three
6 proposals are not received and the project has been publicly advertised for a minimum of 30
7 days, the County may proceed with the proposals received. The Board of Commissioners shall
8 award the contract to the best qualified contractor, taking into account the time of completion
9 of the project, the capital and operation and maintenance cost of the project, the technical
10 merits of the proposal, including, but not limited to, reliability and protection of the
11 environment, and any other factors and information set forth in the request for proposals that
12 the County determines to have a material bearing on the ability to evaluate any proposal.

13 **SECTION 6.** No note or deed of trust granted to a county for the purpose of
14 securing or reserving wastewater treatment capacity is valid or enforceable if that capacity is
15 not utilized by the maker or grantor.

16 **SECTION 7.** This act is effective when it becomes law.