

July 13, 2009

Dear Representative,

On behalf of North Carolina FreedomWorks and the undersigned organizations, we urge you to amend the current version of HB 524, "Annexation – Omnibus Changes."

Our organizations strongly support annexation reform, so it is extremely disappointing that the current version of HB 524 provides no real reform. It is our sincerest hope that meaningful reform amendments will be heard and adopted. We respect the need for compromise, but HB 524 is so inadequate that it fails to reach even minimal expectations.

The legislation fails to address the major areas of reform:

1) **Meaningful Services:** The bill distorts the whole issue of meaningful services—the issue of "meaningful services" is about the codification of the North Carolina Supreme Court decision in *Nolan. v. Village of Marvin*. In that case, the Court held that the primary purpose of forced annexation was to promote sound urban growth by providing services to unincorporated areas that give the property owners a meaningful or significant benefit.

There is nothing meaningful or significant about providing services that an area does not need or providing one extra police officer to an area that has excellent police protection, which HB 524 would expressly allow.

We encourage you to amend HB 524 by requiring a municipality to demonstrate that one meaningful service is necessary for the area, or in the alternative, that the service provides a significant benefit to the property owners.

We are not asking for the "moon" and requesting that every service be demonstrated to be necessary, or even two services—we are simply asking that just one meaningful service be necessary (or provide a significant benefit).

2) **Independent Third Party Oversight:** The county commissions are the ideal bodies to provide oversight. They represent both the municipalities and the annexation victims. They also know the needs of the overall community and would provide annexation victims a voice. Regarding a voice, municipalities oppose a vote and the citizens want a vote. *It is hard to imagine a more perfect compromise than having a representative voice through the county commissions.*

Under HB 524, the Local Government Commission (LGC) would provide "oversight." Most of the appointed members have direct ties to municipalities—it is hardly independent. The citizens have no voice in the annexation. The LGC also would not review whether an annexation was a good idea, but instead focus on very limited issues such as financial feasibility that are of limited importance to annexation

victims—the LGC is poorly suited to review issues outside of debt management (see the Randy Parton Theater debacle). Finally, under HB 524, the LGC is neither accountable to any citizens nor does it appear that citizens could even appeal the LGC’s decisions in court—in other words, the LGC has no incentive to perform its “oversight” properly.

3) **Vote:** Respectfully, the voting procedures added to HB 524 are nothing more than a charade. The vote amendment is virtually meaningless in that it sets the bar unrealistically high in terms of number of petition signatures required to call an election and provides an unrealistically short time frame in which to collect the signatures. Citizens would be required to collect signatures of 15% of registered voters in the municipality and the area to be annexed. From the date the petitions could be picked up from the municipality to the required due date, there would be only 69 to 99 days. The municipalities, wanting to allow as little time as possible for citizens to sign petitions, would likely schedule hearings ASAP so we are likely looking at very close to 69 as opposed to 99 days.

Our experienced grassroots activists, with volunteer networks in place, agree that they could not get the required 15% signatures in even 99 days!

4) **Financial Obligation of Water and Sewer Infrastructure:** Municipalities initiate the annexations and therefore should be financially responsible for water and sewer infrastructure—these costs devastate annexed property owners. Citizens should pay for reasonable tap fees only if they choose to connect to the system. Citizens should not be forced to pay for a system they may never need.

The bill is problematic not only because it fails to address real reforms, but also because it would *hurt* annexation victims.

- Allows municipalities with between 5,000 and 9,999 people to meet the special minimal annexation standards currently only allowed for municipalities with less than 5,000 people.
- Forces annexation victims to pay for water and sewer infrastructure because the municipalities that provide water and sewer to their residents would also be required to provide water and sewer lines within three years—municipalities would simply charge more up front to cover their costs.
- Rejects the North Carolina Supreme Court’s holding in *Nolan v. Village of Marvin* by expressly allowing municipalities to provide services that are not significant or meaningful (such as providing one extra police officer to an area that has excellent police service).

There are some very minor tweaks that the bill includes, but they hardly constitute real reform or compromise. For example, bill proponents tout its prohibition on shoestring annexation, but these types of annexations already are illegal according to the North Carolina Supreme Court in *Hughes v. Town of Oak Island* (The Court affirmed an Appeals Court decision finding shoestring annexations to be illegal).


The legislature has tweaked the annexation law in the past and all it has done is lead to more opposition to the annexation law and more annexation abuse.

We are extremely concerned about HB 524 and the future of annexation reform. The passage of meaningless reform will likely mean many years before we have a chance at meaningful reform.

Thank you for your service to the citizens of our state.

Sincerely,

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Americans for Prosperity – North Carolina  
Biltmore Lakes Community Action Committee  
Brogden Grange (Wayne County)  
Bushy Fork Grange (Person County)  
Cape Fear Grange (Cumberland County)  
Chatham Conservative Voice  
Citizens Against The Ahoskie Bypass  
Citizens United Against Forced Annexation (CUAFA)  
Cumberland County Citizens United  
Dave's Mountain Homeowners  
Fair Annexation Coalition  
Good Neighbors of Rowan County  
Good Neighbors of Wayne County  
John Locke Foundation  
John W. Pope Civitas Institute  
Johnston County Citizens for Justice  
N.C. Property Rights Coalition  
North Carolina FreedomWorks  
North Carolina State Grange  
Oak Level Community Against Forced Annexation (OLCAFA)  
Polk Citizens Against Forced Annexation  
Stop Cary  
Stop Fuquay Annexation Coalition  
Stop NC Annexation Coalition  
Stop the Taking of Pinewild