
Coates' Canons Blog: Deannexation

By Frayda Bluestein

Article: <https://canons.sog.unc.edu/deannexation/>

This entry was posted on January 09, 2013 and is filed under Annexation, General Local Government (Miscellaneous)

UPDATE August 2013: A new statute, **G.S. 105-380**, requires a municipality to release property tax liability for any deannexed property that was within the town limits for six months or less before being deannexed, if no notice has been sent to the taxpayer. This provision became effective July 1, 2013 and expires July 1, 2016 (**S.L. 2013-19**).

The city clerk has received a deannexation petition signed by all the owners of property in a particular neighborhood within the city. How should the city respond? Does the city have the authority to deannex the property? Must the city hold a hearing on the petition? Is deannexation available for properties that were not brought into the city through an annexation process (such as property that was part of the original boundaries of the city)? Does deannexation require the approval of the governing board? What services must or may be provided to the area if it is deannexed? This blog post answers these and other questions regarding deannexation.

What is deannexation?

Deannexation refers to the removal of specified property from a city. Although the term might be read to suggest that it is a process of undoing an earlier annexation, the common use appears to include the removal of any property, regardless of whether it was previously annexed or was instead included in the city boundaries at the time of incorporation.

What is the process for deannexation?

The only way that property can be removed from a city is by a local act of the General Assembly. Cities themselves have no authority to deannex property.

Must there be a petition or board resolution requesting deannexation?

No. There are no statutory procedures or requirements for deannexation, and there are no minimum standards as to the characteristics or location of the property. As noted in my earlier blog post on local acts, the process for obtaining a local act is essentially a political one. That is, the individuals or groups who seek the legislation must contact the legislators who represent them – their “local delegation” – and ask them to introduce the bill. Legislators often request proof of support for the requested bill, but there is no legal requirement for a petition or any other approval by the property owners or any one else. A city governing board may adopt a resolution in favor or against a deannexation as a way of providing information to the legislative delegation about the city’s position, but there is no legal requirement to do so, and such a resolution has no legal effect.

May the legislature deannex property over the objection of the city or of the property owners?

Yes. The legislature has independent constitutional authority to establish the boundaries of cities. The property owners have no right to be removed from the city, and the city has no right to retain its current boundaries. The legislature may, but is not required to, make the annexation contingent on a referendum or upon approval of the city governing board.

What is the effect of deannexation on the delivery of services to the deannexed property.

The answer to this question depends upon the service. The general rule is that cities do not have authority to deliver services outside of the city limits, except perhaps under an interlocal agreement with the county. Cities do have authority under G.S. 160A-312 to operate public enterprises outside the city limits. For example, a city operating a water system may choose to continue providing services to customers who are deannexed, but may legally charge a higher rate once they are removed from the city's tax base.

City streets create a more complicated issue. If a deannexed area includes city-owned or maintained streets it is important to recognize that the city has no authority to maintain streets outside of the city limits. In this situation, it might be advisable to include in the local act a provision that deals with this issue, whether authorizing the city to continue maintenance for a fee, or explicitly absolving the city from any responsibility or liability for the streets.

What are the tax consequences of deannexation?

Property that is deannexed is no longer subject to city taxation. There is no authority to prorate or refund payment of taxes for partial taxable years although provisions for such payments could be provided in the local act that deannexes the property. See update above.

How does deannexation affect regulatory authority in the ETJ?

If a deannexation changes the city's external boundary, it may affect the city's extra-territorial jurisdiction as defined in G.S. 160A-360. The city may need to amend its ETJ ordinance to conform the size of the ETJ area to the limitations in the statute. Subsection (f1) of that statute creates a process for a transition of authority in situations where the city "relinquishes jurisdiction" over areas in the ETJ. Subsection (i) of the statute preserves vested rights acquired under city regulations prior to deannexation.

Does a legislative deannexation limit a city's authority to later "re" annex the same property?

Not unless the deannexation law specifically includes such a prohibition.

Links

- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-380.html
- www.ncga.state.nc.us/Sessions/2013/Bills/Senate/PDF/S97v4.pdf
- canons.sog.unc.edu/?p=2163
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-312
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-360