

## **Annexation**

### **The Past, the Present, the Future**

Panel Discussion Lead By:

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- I. Methods:
  - a. 25% petition/referendum method S. C. Code § 5-3-300
  - b. 75% petition method S. C. Code § 5-3-150 (1)
  - c. 100% petition method S. C. Code § 5-3-150 (3)
  - d. Special Situations, see IV below S. C. Code § 5-3-100 through 140
  
- II. Incentives  
Sloan v. City of Conway, 374 S.C. 324, 555 S.E.2d 684 (2001)  
Robarge v. City of Greenville, 382 S.C. 406, 675 S.E.2d 788 (2010), *cert denied*.  
Cunningham v. City of Greensboro, 711 S.E.2d 477 (N.C.App.2011)
  
- III. Who signs petitions?
  - a. Freeholders  
75% petition method; S. C. Code § 5-3-240 (18 yrs, legal title, present possessory interest, at least one tenth undivided interest and whose name appears on tax records)
  
  - b. Owners of real estate  
100% petition method; Ex parte Wilson v. Yemassee, 391 S.C. 565, 707 S.E.2d 402 (2011); persons owning property under 5-3-150(3) (100% petition) is broader than freeholder under 5-3-150 (1) (75% petition); State, as presumptive owner of marsh, was a necessary signatory



- g. State-owned property S.C. Code § 5-3- 140; Budget and Control Board; Ex parte Wilson v. Yemassee, *supra*.
  - h. Federal property S.C. Code § 5-3- 140; petition by “federal government”
- V. Who gets notice
- a. Pre-annexation
    - 75% method: public hearing;
    - 100% method: no one
    - 25% petition/ referendum: published notice of referenda dates; any freeholder owing property having 25% or more of assessed value of area to be annexed; any freeholder owning timberland or agriculturally assessed property
  - b. Post-annexation S.C. Code § 5-3-90: Secretary of State; SCDOT; Justice Department
- VI. Litigation
- a. Who has standing
    - State always has standing (when acting in public interest) Ex parte Condon v. Columbia, 339 S.C. 8, 528 S.E.2d 408 (2000);
    - 75% method: anyone residing in the annexing municipality or in the area to be annexed;
    - 100% method: any owner of property in the area to be annexed
    - 25% petition/referendum: governed by municipal election protests (?)
  - b. Prerequisite to suit S.C. Code § 5-3-270: Notice of Intent to Contest, within 60 days of annexation; Jurisdictional: Moon v. Greer, 384 S.C. 184, 558 S.E.2d 527 (2002)

- c. Statute of limitations S. C .Code § 5-3-270: Lawsuit within 90 days of annexation
  
- VII. Special Service and Taxing Districts
  - a. Plan for transfer of service S.C. Code § 5-3-300 *et seq*: Municipality decides who serves; Agreement must be in place before tax revenues are transferred to municipality
  
- VIII. Pending legislation
  - a. MASC
  - b. General Assembly
  - c. North Carolina
    - a. allowed if contiguous and 60% of the lots are urban manner or subdivided
    - b. 2011 and 2012 annexation laws stopped involuntary annexations
      - i. Requires a referendum with a majority of votes cast in favor of the annexation
      - ii. Must provide water and sewer to involuntary annexed areas if a majority of persons want service