

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE DRH10089-LM-41 (02/18)

Short Title: Annexation/ETJ Residents Vote. (Public)

Sponsors: Representatives Faison and Allred (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT REQUIRING MUNICIPALITIES TO PROVIDE AN OPPORTUNITY FOR QUALIFIED VOTERS WITHIN AREAS TO BE ANNEXED OR AREAS OVER WHICH A MUNICIPALITY INTENDS TO EXERCISE EXTRATERRITORIAL JURISDICTION TO VOTE IN ELECTIONS FOR THE OFFICERS OF THE MUNICIPALITY'S GOVERNING BODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-37(e) reads as rewritten:

"(e) Passage of the Annexation Ordinance. – The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than the tenth day following the public hearing and not later than 90 days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-36. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-36(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.
- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-35.

- 1 (3) A specific finding that on the effective date of annexation the
2 municipality will have funds appropriated in sufficient amount to
3 finance construction of any water and sewer lines found necessary in
4 the report required by G.S. 160A-35 to extend the basic water and/or
5 sewer system of the municipality into the area to be annexed, or that
6 on the effective date of annexation the municipality will have authority
7 to issue bonds in an amount sufficient to finance such construction. If
8 authority to issue such bonds must be secured from the electorate of
9 the municipality prior to the effective date of annexation, then the
10 effective date of annexation shall be no earlier than the day following
11 the statement of the successful result of the bond election.
- 12 (4) Fix the effective date for annexation. The effective date of annexation
13 may be fixed for any date not less than 40 days nor more than 400 days
14 from the date of passage of the ordinance. However, the annexation
15 ordinance shall not become effective unless the governing board has,
16 prior to adopting the ordinance, provided an opportunity for the
17 qualified voters residing within the area to be annexed to vote for each
18 officer of the governing board."

19 **SECTION 2.** G.S. 160A-49(e) reads as rewritten:

20 "(e) Passage of the Annexation Ordinance. – The municipal governing board shall
21 take into consideration facts presented at the public hearing and shall have authority to
22 amend the report required by G.S. 160A-47 to make changes in the plans for serving the
23 area proposed to be annexed so long as such changes meet the requirements of
24 G.S. 160A-47, provided that if the annexation report is amended to show additional
25 subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were
26 not listed in the original report, the city must hold an additional public hearing on the
27 annexation not less than 30 nor more than 90 days after the date the report is amended,
28 and notice of such new hearing shall be given at the first public hearing. At any regular
29 or special meeting held no sooner than the tenth day following the public hearing and
30 not later than 90 days following such public hearing, the governing board shall have
31 authority to adopt an ordinance extending the corporate limits of the municipality to
32 include all, or such part, of the area described in the notice of public hearing which
33 meets the requirements of G.S. 160A-48 and which the governing board has concluded
34 should be annexed. The ordinance shall:

- 35 (1) Contain specific findings showing that the area to be annexed meets
36 the requirements of G.S. 160A-48. The external boundaries of the area
37 to be annexed shall be described by metes and bounds. In showing the
38 application of G.S. 160A-48(c) and (d) to the area, the governing
39 board may refer to boundaries set forth on a map of the area and
40 incorporate same by reference as a part of the ordinance.
- 41 (2) A statement of the intent of the municipality to provide services to the
42 area being annexed as set forth in the report required by G.S. 160A-47.
- 43 (3) A specific finding that on the effective date of annexation the
44 municipality will have funds appropriated in sufficient amount to

1 finance construction of any major trunk water mains and sewer outfalls
2 and such water and sewer lines as required in G.S. 160A-47(3)b found
3 necessary in the report required by G.S. 160A-47 to extend the basic
4 water and/or sewer system of the municipality into the area to be
5 annexed, or that on the effective date of annexation the municipality
6 will have authority to issue bonds in an amount sufficient to finance
7 such construction. If authority to issue such bonds must be secured
8 from the electorate of the municipality prior to the effective date of
9 annexation, then the effective date of annexation shall be no earlier
10 than the day following the statement of the successful result of the
11 bond election.

- 12 (4) Fix the effective date for annexation. The effective date of annexation
13 may be fixed for any date not less than 70 days nor more than 400 days
14 from the date of passage of the ordinance. However, the annexation
15 ordinance shall not become effective unless the governing board has,
16 prior to adopting the ordinance, provided an opportunity for the
17 qualified voters residing within the area to be annexed to vote for each
18 officer of the governing board."

19 **SECTION 3.** G.S. 160A-360(a) reads as rewritten:

20 "(a) All of the powers granted by this Article may be exercised by any city within
21 its corporate limits. In addition, any city may exercise these powers within a defined
22 area extending not more than one mile beyond its limits. With the approval of the board
23 or boards of county commissioners with jurisdiction over the area, a city of 10,000 or
24 more population but less than 25,000 may exercise these powers over an area extending
25 not more than two miles beyond its limits and a city of 25,000 or more population may
26 exercise these powers over an area extending not more than three miles beyond its
27 limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all
28 powers conferred in this Article. No city may exercise extraterritorially any power
29 conferred by this Article that it is not exercising within its corporate limits. No city may
30 exercise extraterritorially any power conferred by this Article unless the city's governing
31 board has first provided an opportunity for the qualified voters residing within the
32 defined area to vote for each officer of the governing board. In determining the
33 population of a city for the purposes of this Article, the city council and the board of
34 county commissioners may use the most recent annual estimate of population as
35 certified by the Secretary of the North Carolina Department of Administration."

36 **SECTION 4.** G.S. 163-282 reads as rewritten:

37 **"§ 163-282. Residency defined for voting in municipal elections.**

38 The rules for determining residency within a municipality shall be the same as
39 prescribed in G.S. 163-57 for determining county residency. For purposes of eligibility
40 to vote in elections for officers of a municipality as authorized in G.S. 160A-37(e),
41 160A-49(e), and 160A-360(a), any person who is a resident of an area described in a
42 notice of public hearing under G.S. 160A-37(b) or a resident of an area over which the
43 municipality has expressed its intent to exercise extraterritorial jurisdiction under
44 G.S. 160A-360 or by local act is a resident of the municipality. A person whose

1 residency is based upon the person's residing in an area to be annexed or an
2 extraterritorial area is eligible to vote only in elections for officers of the city and not for
3 other types of elections. However, if an area is annexed by a municipality, residents in
4 that area may thereafter vote in all municipal elections if they are otherwise registered,
5 qualified, and eligible. No person shall be entitled to reside in more than one city or
6 town at the same time."

7 **SECTION 4.** G.S. 163-288.1(a) reads as rewritten:

8 "(a) Whenever any new city or special district is incorporated or whenever an
9 existing city or district ~~annexes any territory,~~ intends to annex territory under
10 G.S. 160A-37(e) or G.S. 160A-49(e) or by local act or to add territory to its
11 extraterritorial planning jurisdiction under G.S. 160A-360 or by local act, the city or
12 special district shall cause a map of the corporate or district limits or extraterritorial area
13 to be prepared from the boundary descriptions in the act, charter or other document
14 creating the city or district or authorizing or implementing the planned annexation or
15 extension of extraterritorial jurisdiction. The map shall be delivered to the county or
16 municipal board of elections conducting the elections for the city or special district. The
17 board of elections shall then activate for city or district elections each voter eligible to
18 vote in the city or district who is registered to vote in the county to the extent that
19 residence addresses shown on the county registration certificates can be identified as
20 within the limits of the city or special ~~district.~~ district or within the extraterritorial area.
21 Each voter whose registration is thus activated for city or special district elections shall
22 be so notified by mail. The cost of preparing the map of the newly incorporated city or
23 special district or of the ~~newly annexed area,~~ territory to be annexed or the
24 extraterritorial area, and of activating voters eligible to vote therein, shall be paid by the
25 city or special district. In lieu of the procedures set forth in this section, the county
26 board of elections may use either of the methods of registration of voters set out in
27 G.S. 163-288.2 when activating voters pursuant to the incorporation of a new city or
28 election of city officials or both under authority of an act of the General Assembly or
29 when activating voters ~~after an annexation of new territory~~ residing within territory to
30 be annexed by a city or special district under ~~Chapter 160A, Article 4A,~~ Article 4A of
31 Chapter 160A of the General Statutes or other general or local ~~law.~~ law or residing
32 within an extraterritorial area."

33 **SECTION 5.** G.S. 163-288.2 reads as rewritten:

34 **"§ 163-288.2. Registration in area proposed for incorporation or annexed.**

35 (a) Whenever the General Assembly incorporates a new city and provides in the
36 act of incorporation for a referendum on the question of incorporation or for a special
37 election for town officials or for both, or whenever an existing city or special district
38 ~~annexes~~ intends to annex new territory under the provisions of ~~Chapter 160A, Article~~
39 ~~4A,~~ Article 4A of Chapter 160A of the General Statutes or other general or local law, or
40 to add territory to its extraterritorial planning jurisdiction under G.S. 160A-360 or by
41 local act, the board of elections of the county in which the proposed city is located or in
42 which the ~~newly annexed territory~~ to be annexed or the extraterritorial area is located
43 shall determine those individuals eligible to vote in the referendum or special election or

1 in the city or special district elections. In determining the eligible voters the board may,
2 in its discretion, use either of the following methods:

3 METHOD A. – The board of elections shall prepare a list of those registered voters
4 residing within the proposed ~~city or newly annexed territory~~city, the territory to be
5 annexed, or the extraterritorial area. The board shall make this list available for public
6 inspection in its office for a two-week period ending on the twenty-fifth day before the
7 day of the referendum or special election, or the next scheduled city or special district
8 election. During this period, any voter resident within the proposed ~~city or newly~~
9 ~~annexed territory~~ city, the territory to be annexed, or the extraterritorial area and not
10 included on the list may cause his name to be added to the list. At least one week and no
11 more than two weeks before the day the period of public inspection is to begin, the
12 board shall cause notice of the list's availability to be posted in at least two prominent
13 places within the proposed ~~city or newly annexed territory~~ city, the territory to be
14 annexed, or the extraterritorial area and may cause the notice to be published in a
15 newspaper of general circulation within the county. The notice shall state that the list
16 has been prepared, that only those persons listed may vote in the referendum or special
17 election, that the list will be available for public inspection in the board's office, that any
18 qualified voter not included on the list may cause his name to be added to the list during
19 the two-week period of public inspection, and that persons in ~~newly annexed~~
20 ~~territory~~the territory to be annexed or the extraterritorial area should present themselves
21 so their registration records may be activated for voting in city or special district
22 elections in the ~~newly annexed territory~~territory to be annexed or extraterritorial area.
23 Notice may additionally be made on a radio or television station or both, but such notice
24 shall be in addition to the newspaper and other required notice.

25 METHOD B. – The board of elections shall conduct a special registration of eligible
26 persons desiring to vote in the referendum or special election or in the ~~newly annexed~~
27 ~~territory~~territory to be annexed or the extraterritorial area. The registration records shall
28 be open for a two-week period (except Sundays) ending on the twenty-fifth day before
29 the day of the referendum or special election or the next scheduled city or special
30 district election. On the two Saturdays during that two-week period, the records shall be
31 located at the voting place for the referendum or special election or the next scheduled
32 city or special district election; on the other days it may, in the discretion of the board,
33 be kept at the voting place, at the office of the board, or at the place of business of a
34 person designated by the board to conduct the special registration. At least one week
35 and no more than two weeks before the day the period of special registration is to begin,
36 the board shall cause notice of the registration to be posted in at least two prominent
37 places within the proposed city or ~~newly annexed~~the territory to be annexed or the
38 extraterritorial area and may cause the notice to be published in a newspaper of general
39 circulation within the county. The notice shall state the purpose and times of the special
40 registration, the location of the registration records, that only those persons registered in
41 the special registration may vote in the referendum or special election, and that persons
42 in ~~newly annexed~~the territory to be annexed or the extraterritorial area should present
43 themselves so their registration records may be activated for voting in city or special
44 district elections in the ~~newly annexed territory~~territory to be annexed or the

1 extraterritorial area. Notice may additionally be made on a radio or television station or
2 both, but such notice shall be in addition to the newspaper and other required notice.

3 (b) Only those persons registered pursuant to this section may vote in the
4 referendum or special election, provided, however, that in cases where voters are
5 activated under either Method A or B to vote in a city or special district that annexes
6 territory, the city or special district shall permit them to vote in the city or special
7 district's election and shall, as well, permit other voters to vote in such elections who did
8 not register under the provisions of this section if they are otherwise registered,
9 qualified and eligible to vote in the same."

10 **SECTION 6.** This act is effective when it becomes law and applies to
11 annexations that occur on or after that date and to annexations that have commenced
12 (evidenced by the passing of a resolution under G.S. 160A-37(a) or G.S. 160A-49(a))
13 prior to that date but do not become effective until on or after October 1, 2005. This act
14 also applies to extensions of extraterritorial jurisdiction that occur on or after the date
15 this act becomes law and to extensions that are planned (evidenced by the municipality
16 notifying owners of land in the ETJ area under G.S. 160A-360(a1)) prior to that date but
17 do not become effective until on or after October 1, 2005.