

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 237\*

Short Title: Incorporate Castle Hayne.

(Local)

Sponsors: Senator Goolsby.

Referred to: Finance.

March 8, 2011

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF CASTLE HAYNE, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

**SECTION 1.** A Charter for the Town of Castle Hayne is enacted to read:

"CHARTER OF THE TOWN OF CASTLE HAYNE.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Castle Hayne are a body corporate and politic under the name "Town of Castle Hayne." The Town shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Castle Hayne are as follows:

BEGINNING at a point in the center line of N.C. Highway No. 133 at the Northern New Hanover County boundary line; thence in a westerly direction; thence northerly, along the New Hanover County boundary line to a point intersecting the southern boundary line of PIN #3232-19-5017.000; thence westward of said parcel along the southern boundary to PIN #3212-83-7918.000; thence west along the southern boundary line; thence south along the eastern boundary line; thence east to intersect Prince George Creek; thence joining the southern bank of Prince George Creek; thence west along the southern bank to intersect with the eastern boundary lines of PIN #3221-28-5577.000; thence south along the eastern side to PIN #3221-36-7616.000 northern tip; thence north along the western side; thence east of said parcel along the northern boundary line; thence south of said parcel along the eastern boundary line to the centerline point of Sondey Rd; thence east along the centerline of said road to the intersection of the centerline of N.C. Highway No. 133; thence north on centerline of said road to the intersection of the centerline of Parmele Rd; thence east on the centerline line of said road to the centerline of N.C. Highway No. 132; thence south on the centerline to southern tip of PIN #3231-63-0919.000; thence east along the southern boundary line to PIN #3231-63-2909.000; thence south along the western boundary line to PIN #3231-63-2886.000; thence south along the western boundary line to the eastern boundary line of PIN #3231-64-6255.000; thence north along the western boundary line; thence east along the northern boundary line to PIN #3231-74-0048.000; thence east along the northern boundary line to PIN #3231-83-1775.000; thence north along the eastern boundary line to PIN #3231-84-5481; thence east along the southern boundary line to the centerline point of Blue Clay Rd; thence north of said road to the point of intersection at the right of way of Interstate 40; thence crossing said interstate in a line connecting to the continuation of the centerline of



\* S 2 3 7 - V - 1 \*

1 Blue Clay Rd on the northern boundary of the interstate right-of-way at the centerline of Blue  
2 Clay Rd; thence north on said road to PIN #3241-06-4363.000; thence east along said parcel  
3 along the southern boundary line to PIN #3241-06-6234.000; thence east along the southern  
4 boundary line to PIN #3241-05-7293.000; thence east along the northern boundary line to PIN  
5 #3241-15-4490.000; thence east along the northern boundary line to PIN #3241-26-3164.000;  
6 thence east along the western boundary line north to PIN #3241-26-4528.000; thence east along  
7 the southern boundary line; thence north along the eastern boundary line to PIN  
8 #3241-26-9929; thence east of said parcel along the southern boundary line to PIN  
9 #3241-88-1225.000; thence north of said parcel along the western boundary line; thence west;  
10 thence north along the centerline at Blue Clay Rd; thence east along the northern boundary line  
11 to PIN #3251-63-1678.000; thence north of said parcel along the western boundary line to the  
12 centerline point at Holly Shelter Rd; thence east along of said road centerline to New Hanover  
13 County boundary line; thence north along the county line to the New Hanover County  
14 boundary line at the North East Cape Fear River; thence west along the northern boundary of  
15 the New Hanover County line to the starting point at centerline of N.C. Highway No. 133 at the  
16 Northern New Hanover County boundary line.

17 "ARTICLE III. GOVERNING BODY.

18 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing body  
19 of the Town of Castle Hayne is the Mayor and the Town Council, which shall have six  
20 members.

21 "Section 3.2. **Manner of Electing Town Council; Terms; Vacancies.** The qualified voters  
22 of the entire Town shall elect the members of the Town Council and, except as provided in this  
23 section, they shall serve four-year terms. In 2011, the three candidates receiving the highest  
24 numbers of votes shall be elected to four-year terms and the three candidates receiving the next  
25 highest numbers of votes shall be elected to two-year terms. In 2013, and quadrennially  
26 thereafter, three members shall be elected to four-year terms. In 2015, and quadrennially  
27 thereafter, three members shall be elected to four-year terms. Vacancies on the Town Council  
28 shall be filled as provided in G.S. 160A-63.

29 "Section 3.3. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of  
30 the entire Town shall elect the Mayor. In 2011, and biennially thereafter, the Mayor shall be  
31 elected for a term of two years. The Mayor shall attend and preside over meetings of the Town  
32 Council, shall advise the Town Council from time to time as to matters involving the Town of  
33 Castle Hayne, and shall have the right to vote as a member of the Town Council on all matters  
34 before the Town Council, but shall have no right to break a tie vote in which the Mayor has  
35 participated. Vacancies in the office of Mayor shall be filled as provided in G.S. 160A-63.

36 "Section 3.4. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The  
37 Mayor Pro Tempore shall be elected from among the members of the Town Council at the  
38 organizational meeting after the initial election in November 2011 and shall serve for a term of  
39 two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the  
40 Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the  
41 members of the Town Council present may elect a temporary chair to preside in the absence  
42 from amongst the members of the Council. The Mayor Pro Tempore shall have the right to vote  
43 on all matters before the Town Council and shall be considered a member of the Town Council  
44 for all purposes.

45 "Section 3.5. **Residency Requirement.** Members of the governing body of the Town of  
46 Castle Hayne, whether elected or appointed, must be qualified voters who reside within the  
47 corporate limits of the Town in order to qualify to take, hold, and continue in office.

48 "Section 3.6. **Compensation of Mayor and Town Council.** The Mayor of the Town of  
49 Castle Hayne shall be paid an annual sum of one thousand five hundred dollars (\$1,500) as  
50 compensation for his or her services, and each member of the Town Council shall be paid an  
51 annual sum of one thousand dollars (\$1,000) as compensation for his or her services. In

1 addition, the Mayor and the members of the Town Council shall be entitled to reimbursement  
2 for ordinary and necessary travel, training, or other expenses incurred in the course of  
3 performing their official duties, subject to adopted Town Council policies. The Town Council  
4 may, from time to time, establish rates and amounts of reimbursement which shall not be  
5 exceeded without prior approval of the Town Council.

6 "ARTICLE IV. ELECTIONS.

7 "Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan  
8 basis and the results determined by a plurality as provided in G.S. 163-292.

9 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter  
10 163 of the General Statutes, with the first regular municipal election to be held on November 8,  
11 2011.

12 "Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be  
13 held only as provided by the general law of North Carolina, local acts of the General Assembly,  
14 or as provided for in this Charter.

15 "ARTICLE V. ADMINISTRATION.

16 "Section 5.1. **Town to Operate Under Council-Manager Plan.** The Town shall operate  
17 under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter  
18 160A of the General Statutes.

19 "Section 5.2. **Town Manager; Powers and Duties.** The Town Council shall appoint the  
20 Town Manager to be the administrative head of the Town government and be responsible for  
21 the administration of all departments and to serve at the pleasure of the Town Council. The  
22 Town Manager shall receive such compensation as is fixed by the Town Council. The  
23 appointment shall be in accordance with G.S. 160A-147. The Town Manager may concurrently  
24 hold another appointed, but not elected, office as determined by the Town Council. The Town  
25 Manager shall be the administrative head of the Town and shall have all the powers, duties, and  
26 authority as set forth in G.S. 160A-148, by general law, and by this Charter, unless otherwise  
27 limited by this Charter.

28 "Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected Officials.** As  
29 chief administrator of the Town, the Town Manager shall have the power to appoint, suspend,  
30 and remove all Town officers, department heads, and employees, except the Town Attorney,  
31 Town Clerk, and any other official whose appointment or removal is vested in the Town  
32 Council by this Charter or by general law. Neither the Town Council nor any of its members  
33 shall take part in the appointment or removal of officers or employees in the administrative  
34 service of the Town of Castle Hayne, except as provided by this Charter. Except for purposes  
35 of inquiry, or for consultation with the Town Attorney, the Town Council and its members  
36 shall deal with Town employees solely through the Town Manager or Acting Town Manager,  
37 and neither the Town Council nor any of its members shall give any specific orders to any  
38 subordinates of the Town Manager or Acting Town Manager, either publicly or privately.

39 "Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed  
40 to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the  
41 Town, advise Town officials, and perform other duties required by law or as the Town Council  
42 may direct.

43 "Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal  
44 of the proceedings of the Town Council, to maintain official records and documents, to give  
45 notice of meetings, and to perform such other duties required by law or as the Town Council  
46 may direct.

47 "Section 5.6. **Other Administrative Officers and Employees.** The Town Council may  
48 authorize other offices and positions and appoint persons to fill the offices and positions, or the  
49 Council may authorize the offices and positions to be filled by appointment by the Town  
50 Manager. The Town Council may organize the Town government as deemed appropriate,  
51 subject to the requirements of general law.

1 "Section 5.7. **Advisory Groups and Boards.** The Town Council may create one or more  
2 advisory groups or boards to assist or advise the Town Council on matters related to the Town,  
3 unless otherwise prohibited by general law. The Town Council may appoint members to serve  
4 on an advisory group or board authorized by this section, subject to the requirements of general  
5 law.

6 "Section 5.8. **Consolidation of Functions.** Where positions are not incompatible, the Town  
7 Council may combine in one person the powers and duties of two or more officers created or  
8 authorized by this Charter.

9 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

10 "Section 6.1. **Powers of the Village Council.** The Town Council may levy those taxes and  
11 fees authorized by general law. An affirmative vote equal to a majority of all the members of  
12 the Town Council shall be required to change the ad valorem tax rate from the rate established  
13 during the prior fiscal year.

14 "Section 6.2. **Commencement of Tax Collection.** From and after July 1, 2011, the citizens  
15 and property in the Town of Castle Hayne shall be subject to municipal taxes levied for the  
16 year beginning July 1, 2011, and for that purpose, the Town shall obtain from New Hanover  
17 County a record of property in the area herein incorporated which was listed for property taxes  
18 as of January 1, 2011.

19 "Section 6.3. **Budget.** The Town may adopt a budget ordinance for fiscal year 2011-2012  
20 without following the timetable in the Local Government Budget and Fiscal Control Act, but  
21 shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year  
22 2011-2012, ad valorem taxes may be paid at par or face amount within 90 days of adoption of  
23 the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the  
24 taxes had been due and payable on September 1, 2011.

25 "ARTICLE VII. ORDINANCES.

26 "Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Castle  
27 Hayne is authorized to adopt such ordinances as the Town Council deems necessary for the  
28 governance of the Town.

29 "ARTICLE VIII. MISCELLANEOUS.

30 "Section 8.1. **Conflicts of Interest.** No person, or a member of the person's immediate  
31 family, who is employed by or is an official of the Town of Castle Hayne, shall do business  
32 with the Town unless the activity is approved by the Town Council. All appointed officials of  
33 the Town shall inform the Town Council of any conflicts of interest, and the failure to so  
34 inform shall constitute grounds for immediate dismissal for cause. No official of the Town may  
35 accept any gratuity from any business, person, or other official if the gratuity is related to his or  
36 her official duties.

37 "Section 8.2. **Enlargement or Reduction of Town Council.** (a) The Town Council may  
38 enlarge or reduce the size of the Town Council by two offices upon an affirmative vote of  
39 three-fourths of the members of the Town Council. A vote to enlarge or reduce the size of the  
40 Town Council may be had at any time, but shall not occur more often than every two years.  
41 The Town Charter shall be amended to reflect an affirmative vote to enlarge or reduce the size  
42 of the Town Council as provided in G.S. 160A-102.

43 (b) The qualified voters of the Town of Castle Hayne may seek to enlarge or reduce the  
44 number of members of the Town Council by submitting a petition to that effect signed by  
45 twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in  
46 G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take  
47 steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by  
48 referendum whether the number of members of the Town Council should be increased or  
49 reduced. If a majority of the votes cast in the referendum are in the affirmative to enlarge the  
50 number of members of the Town Council, a special election shall be held at the earliest

1 possible date to elect the additional members required to enlarge the Town Council to the  
2 number set forth in the referendum.

3 "Section 8.3. **Amendments to Charter.** The Town Council may propose and enact  
4 amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the  
5 General Statutes. No amendment to this Charter shall become effective until public notice is  
6 given and a public hearing is held to receive comments on the proposed Charter amendment.  
7 Notwithstanding G.S. 160A-103, upon receipt of a referendum petition bearing the signatures  
8 and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town  
9 Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

10 "Section 8.4. **Provision of Services and Administration of Functions.** The Town Council  
11 may enter into agreements with other governmental bodies and private enterprises for the  
12 provision of services and the administration of corporate functions in order to provide the  
13 services and administer the functions in the most efficient and cost-effective manner.

14 "ARTICLE IX. SPECIAL PROVISIONS.

15 "Section 9.1. **Fire Protection.** The Town of Castle Hayne may contract with either or both  
16 the New Hanover County Fire Services or the Castle Hayne Volunteer Fire Department, or any  
17 other capable fire services provider, to provide fire protection for the Town. The contract terms  
18 and the amount paid by the Town of Castle Hayne to any fire services provider shall be  
19 mutually agreed upon and annually renewed by the Town Council and the fire services  
20 provider.

21 "Section 9.2. **Law Enforcement.** The Town of Castle Hayne may contract with the New  
22 Hanover County Sheriff's Department, or any other capable law enforcement services provider,  
23 to provide law enforcement services for the Town. The contract terms and amount paid by the  
24 Town of Castle Hayne to the New Hanover County Sheriff's Department or any other capable  
25 law enforcement services provider shall be mutually agreed upon and annually renewed by the  
26 Town Council and the New Hanover County Board of Commissioners, or other capable law  
27 enforcement services provider.

28 "Section 9.3. **Zoning, Planning, and Inspections.** The Town of Castle Hayne may contract  
29 with the New Hanover County Planning, Zoning, and Inspections Department, or any other  
30 capable planning, zoning, and inspections service provider, to provide planning, zoning, and  
31 inspections services for the Town. The contract terms and amount paid by the Town of Castle  
32 Hayne to the New Hanover County Planning, Zoning, and Inspections Department, or any other  
33 capable planning, zoning, and inspections service provider, shall be mutually agreed upon and  
34 annually renewed by the Town Council and the New Hanover County Board of  
35 Commissioners, or other capable planning, zoning, and inspections service provider."

36 **SECTION 2.** The New Hanover County Board of Elections shall conduct an  
37 election on November 8, 2011, for the purpose of submission to the qualified voters for the area  
38 described in Section 2.1 of the Charter of the Town of Castle Hayne the question of whether or  
39 not the area shall be incorporated as the Town of Castle Hayne. Registration for the election  
40 shall be conducted in accordance with G.S. 163-288.2.

41 **SECTION 3.** In the election, the question on the ballot shall be:

42 "[ ] FOR [ ] AGAINST

43 Incorporation of the Town of Castle Hayne."

44 **SECTION 4.** In the election, if a majority of the votes are cast "FOR Incorporation  
45 of the Town of Castle Hayne," Section 1 of this act shall become effective on the date that the  
46 New Hanover County Board of Elections certifies the results of the election. Otherwise,  
47 Section 1 of this act shall have no force and effect.

48 **SECTION 5.** At the same time as the election held under Section 2 of this act, the  
49 New Hanover County Board of Elections shall hold an election for the initial Town Council as  
50 provided in Articles III and IV of the proposed Charter of the Town of Castle Hayne. If the  
51 majority of votes is not cast "FOR Incorporation of the Town of Castle Hayne," the election of

1 officers is null and void. The filing period for candidacies is the same as provided by  
2 G.S. 163-294.

3 **SECTION 6.** This act is effective when it becomes law.