

**§ 130A-81. Incorporation of municipality and simultaneous dissolution of sanitary district, with transfer of assets and liabilities from the district to the municipality.**

The General Assembly may incorporate a municipality, which includes within its boundaries or is coterminous with a sanitary district and provide for the simultaneous dissolution of the sanitary district and the transfer of the district's assets and liabilities to the municipality, in the following manner:

- (1) The incorporation act shall define the boundaries of the proposed municipality; shall set the date for and provide for a referendum on the incorporation of the proposed municipality and dissolution of the sanitary district; shall provide for registration of voters in the area of the proposed municipality in accordance with G.S. 163-288.2; shall set a proposed effective date for the incorporation of the municipality and the dissolution of the sanitary district; shall establish the form of government for the proposed municipality and the composition of its governing board, and provide for transitional arrangements for the sanitary district to the municipality; and may include any other matter appropriate to a municipal charter.
- (1a) As an alternate to subdivision (1) of this section, the incorporation act shall define the boundaries of the proposed municipality; shall provide that the incorporation is not subject to referendum; shall set a proposed effective date for the incorporation of the municipality and the dissolution of the sanitary district; shall establish the form of government for the proposed municipality and the composition of its governing board, and provide for transitional arrangements for the sanitary district to the municipality, and may include any other matter appropriate to a municipal charter. If this subdivision is followed instead of subdivision (1), then the municipality shall be incorporated and the sanitary district simultaneously dissolved at 12 noon on the date set for incorporation in the incorporation act, and the provisions of paragraphs a through g of subdivision (5) of this section shall apply.
- (2) The referendum shall be conducted by the board of elections of the county in which the proposed municipality is located. If the proposed municipality is located in more than one county, the board of elections of the county which has the greatest number of residents of the proposed municipality shall conduct the referendum. The board of election shall conduct the referendum in accordance with this section and the provisions of the incorporation act.
- (3) The form of the ballot for a referendum under this section shall be substantially as follows:
  - FOR incorporation of the Town (City) of \_\_\_\_ and the simultaneous dissolution of the \_\_\_\_ Sanitary District, with transfer of the District's assets and liabilities to the Town (City), and assumption of the District's indebtedness by the Town (City).
  - AGAINST incorporation of the Town (City) of \_\_\_\_ and the simultaneous dissolution of the \_\_\_\_ Sanitary District, with transfer of the District's assets and liabilities, to the Town (City), and assumption of the District's indebtedness by the Town (City)."
- (4) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the board of elections shall notify the Department and the Local Government Commission of the date on which the municipality will be incorporated and the sanitary district dissolved and shall state that all assets and liabilities of the sanitary

district will be transferred to the municipality and that the municipality will assume the district's indebtedness.

- (5) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the municipality shall be incorporated and the sanitary district shall be simultaneously dissolved at 12 noon on the date set for incorporation in the incorporation act. At that time:

- a. The sanitary district shall cease to exist as a body politic and corporate;
- b. All property, real, personal and mixed, belonging to the sanitary district vests in and is the property of the municipality;
- c. All judgments, liens, rights and courses of action in favor of the sanitary district vest in favor of the municipality;
- d. All rentals, taxes, assessments and other funds, charges or fees owed to the sanitary district are owed to and may be collected by the municipality;
- e. Any action, suit, or proceeding pending against, or instituted by the sanitary district shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The municipality shall be a party to these actions, suits and proceedings in the place of the sanitary district and shall pay any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings;
- f. All obligations of the sanitary district, including outstanding indebtedness, are assumed by the municipality, and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the municipality. The full faith and credit of the municipality is deemed to be pledged for the payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the sanitary district, and all the taxable property within the municipality shall remain subject to taxation for these payments; and
- g. All rules of the sanitary district shall continue in effect until repealed or amended by the governing body of the municipality.

- (6) The transition between the sanitary district and the municipality shall be provided for in the incorporation act of the municipality. (1971, c. 737, 1973, c. 476, s. 128; 1983, c. 891, s. 2; 1985, c. 375; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)