

**§ 162A-68. Procedure for inclusion of additional political subdivision or unincorporated area; notice and hearing; elections; actions to set aside proceedings.**

(a) If, at any time subsequent to the creation of a district, there shall be filed with the district board (i) a resolution of the governing body of a political subdivision requesting inclusion in the district all or part of such political subdivision or (ii) a petition signed by not less than fifty-one per centum (51%) of the qualified voters resident within an unincorporated area requesting inclusion in the district such unincorporated area, and if the district board shall favor the inclusion in the district of such new territory, the district board shall notify the board or boards of commissioners of the county or counties within which the district lies and shall file with the board or boards of commissioners and with the Environmental Management Commission a report setting forth the plans of the district for extending sewerage service to the new territory. The report shall include:

- (1) A map or maps of the district and adjacent territory showing the present and proposed boundaries of the district; the existing major sewer interceptors and outfalls; and the proposed extension of such interceptors and outfalls.
- (2) A statement setting forth the plans of the district for extending sewerage services to the territory proposed to be included, which plans shall:
  - a. Provide for extending sewerage service to the territory included on substantially the same basis and in the same manner as such services are provided within the rest of the district prior to inclusion of the new territory.
  - b. Set forth a proposed time schedule for extending sewerage service to the territory proposed to be included.
  - c. Set forth the estimated cost of extending sewerage service to the territory proposed to be included; the method by which the district proposes to finance the extension; the outstanding existing indebtedness of the district, if any; and the valuation of assessable property within the district and within the territory proposed to be included.
  - d. Contain a declaration of intent of the district board to conform with the plans set forth in the report in extending sewerage services to the territory proposed to be included; and a certification by the chairman of the district board to the effect that the matters and things set forth in the report are true to his knowledge or belief.

(b) The board or boards of commissioners, through the chairmen thereof, shall thereupon request that a representative of the Environmental Management Commission hold a joint public meeting with the board or boards of commissioners concerning the inclusion of a political subdivision or an unincorporated area in the district. The chairman of the Environmental Management Commission and the chairman or chairmen of the board or boards of commissioners shall name a time and place within the district at which the public hearing shall be held. The chairman or chairmen of the board or boards of commissioners shall give prior notice of such hearing by posting a notice at the courthouse door of the county or counties at least 30 days prior to the hearing and also by publication at least once a week for four successive weeks in a newspaper having general circulation in the district and in any such political subdivision or unincorporated area, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the inclusion of such political subdivision or unincorporated area cannot be included at such hearing, such hearing may be continued to a time and place within the district determined by the board or boards of commissioners with the concurrence of the representative of the Environmental Management Commission.

(c) If, after such hearing, the Environmental Management Commission and the board or boards of commissioners shall determine that the inclusion of the political subdivision or unincorporated area in the district will preserve and promote the public health and welfare, the Environmental Management Commission shall adopt a resolution to that effect, defining the boundaries of the district, including the political subdivision or unincorporated area which has filed a resolution or petition as provided for in this section, and declaring such political subdivision or unincorporated area to be included in the district.

(d) If, at or prior to such public hearing, there shall be filed with the district board a petition, signed by not less than ten per centum (10%) of the qualified voters residing in the district, requesting an election to be held therein on the question of including the political subdivision or unincorporated area, the district board shall certify a copy of such petition to the board or boards of commissioners, and the board or boards of commissioners shall request the county board or boards of elections to submit such question to the qualified voters within the district in accordance with G.S. 163-287 and the other applicable provisions of Chapter 163 of the General Statutes; provided, that the election shall not be held unless the Environmental Management Commission has adopted a resolution approving the inclusion of the political subdivision or unincorporated area in the district.

Notice of such election, which shall contain a statement of the boundaries of the territory proposed to be included in the district and the boundaries of the district after inclusion, shall be given by publication once a week for three successive weeks in a newspaper or newspapers having general circulation within the district, the first publication to be at least 30 days prior to the election.

(e) Notice of the resolution of the Environmental Management Commission, or in the event that an election pursuant to this section is held, notice of the results of the election, approving the inclusion of the political subdivision or unincorporated area within the district shall be published as provided in G.S. 162A-66.

(f) Any action or proceeding in any court to set aside a resolution of the Environmental Management Commission or an election approving the inclusion of a political subdivision or unincorporated area within a district or to obtain any other relief upon the ground that such resolution or election or any proceeding or action taken with respect to the inclusion of the political subdivision or unincorporated area within the district is invalid, must be commenced within 30 days after the first publication of the notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the election or the inclusion of the political subdivision or unincorporated area in the district shall be asserted, nor shall the validity of the resolution or the election or the inclusion of the political subdivision or unincorporated area be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

(g) Any political subdivision or unincorporated area included within an existing district by resolution of the Environmental Management Commission or by such resolution and election shall be subject to all debts of the district.

(h) The annexation by a city or town within a metropolitan sewerage district of an area lying outside such district shall not be construed as the inclusion within the district of an additional political subdivision or unincorporated area within the meaning of the provisions of this section; but any such areas so annexed shall become a part of the district and shall be subject to all debts thereof.

(i) Immediately following the inclusion of any additional political subdivision within an existing district, members representing such additional political subdivision shall be appointed to the district board in the manner provided in this section:

- (1) Any additional unincorporated area that is included within an existing district shall be represented by the members representing the county in which the unincorporated area lies as follows:
  - a. If inclusion of the additional unincorporated area extends the district into more than one county, members representing the unincorporated area in the new county shall be appointed immediately following the inclusion of the additional area. Upon the inclusion of the additional area, the board members appointed in accordance with G.S. 162A-67(a)(1) or G.S. 162A-67(a)(1a) shall continue to serve on the district board. The board of commissioners of the county in which the largest portion of the district lies shall appoint qualified voters residing in the county and district as their successors such that the county in which the largest portion of the district lies shall always have three members on the district board. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve a term of three years and shall appoint qualified voters residing in the county and district as their successors such that the county in which the lesser portion of the district lies shall always have two members on the district board. For purposes of this subdivision, the county in which the largest portion and lesser portion of the district lies shall be determined with reference to the land area of the district lying within the county as a percentage of land area of the entire district at the time such appointment or reappointment is made.
  - b. If the inclusion of the additional unincorporated area has the effect of changing the county in which the largest portion of the district lies, new members representing the county comprising the larger portion of the district shall be appointed in accordance with G.S. 162A-67(a)(2) immediately following the inclusion, and no reappointment shall be made by the county in which the lesser portion of the district lies upon expiration of the first term of a member representing that county following the inclusion.
- (1a) Notwithstanding subdivision (1) of this subsection, when the territory of the district is expanding into new territory, any county without representation on the district board shall be represented by three additional members who are qualified voters residing within the new territory, appointed by the county board of commissioners governing the new territory.
- (2) Except as otherwise provided in this subsection, following the inclusion of any additional political subdivision within an existing district, the political subdivisions added shall appoint members to the district board in accordance with G.S. 162A-67(a)(4) only if the governing body of the political subdivision owns or operates a public system for the collection of wastewater at the time of such appointment.

(j) The terms of office of the members first appointed under subsection (i) of this section to represent such additional political subdivision or area may be varied for a period not to exceed six months from the terms provided for in G.S. 162A-67, so that the appointment of successors to such members may more nearly coincide with the appointment of successors to members of the existing board; and all successor members shall be appointed for the terms provided for in G.S. 162A-67. (1961, c. 795, s. 5; 1973, c. 512, s. 3; c. 822, s. 4; c. 1262, s. 23; 1977, c. 764, s. 2;

1991 (Reg. Sess., 1992), c. 954, s. 1; 2012-203, s. 3; 2013-381, s. 10.30; 2017-26, s. 1; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)