

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1187*

Short Title: Mail ETJ Notice/Hearing on Appointments.

(Public)

Sponsors: Senators Hartsell; Odom and Carrington.

Referred to: Judiciary II/Election Laws.

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO REQUIRE FIRST-CLASS MAIL NOTICE TO ALL PROPERTY OWNERS IN AN AREA PROPOSED FOR ADDITION TO A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION, PROPORTIONAL REPRESENTATION FOR RESIDENTS OF THE ETJ ON THE PLANNING AGENCY, AND A HEARING BEFORE COUNTY APPOINTMENT OF REPRESENTATION TO THE PLANNING AGENCY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-360 is amended by adding a subsection to read:

"(a1) Any municipality planning to exercise extraterritorial jurisdiction under this Article shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a public hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160A-364, and the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning agency and the board of adjustment, as provided in G.S. 160A-362. The notice shall be mailed at least four weeks prior to the public hearing. The person or persons mailing the notices shall

1 certify to the city council that the notices were sent by first-class mail, and the certificate
2 shall be deemed conclusive in the absence of fraud."

3 Sec. 2. G.S. 160A-362 reads as rewritten:

4 **"§ 160A-362. Extraterritorial representation.**

5 When a city elects to exercise extraterritorial zoning or subdivision-regulation powers
6 under G.S. 160A-360, it shall in the ordinance creating or designating its planning agency
7 or agencies provide a means of proportional representation based on population for
8 residents of the extraterritorial area to be regulated. Representation shall be provided by
9 appointing ~~residents~~ at least one resident of the area to the planning agency and the board
10 of adjustment that makes recommendations or grants relief in these matters. Membership
11 of joint municipal county planning agencies or boards of adjustment may be appointed as
12 agreed by counties and municipalities. Any advisory board established prior to July 1,
13 1983, to provide the required extraterritorial representation shall constitute compliance
14 with this section until the board is abolished by ordinance of the city. The representatives
15 on the planning agency and the board of adjustment shall be appointed by the board of
16 county commissioners with jurisdiction over the area. When selecting a new
17 representative to the planning agency or to the board of adjustment, the board of county
18 commissioners shall hold a public hearing on the selection. A notice of the hearing shall
19 be given once a week for two successive calendar weeks in a newspaper having general
20 circulation in the area. The board of county commissioners shall select appointees only
21 from those who apply at or before the public hearing. The county shall make the
22 appointments within 45 days following the public hearing. Once a city provides
23 proportional representation, no power available to a city under G.S. 160A-360 shall be
24 ineffective in its extraterritorial area solely because county appointments have not yet
25 been made. If there is an insufficient number of qualified residents of the area to meet
26 membership requirements, the board of county commissioners may appoint as many
27 other residents of the county as necessary to make up the requisite number. When the
28 extraterritorial area extends into two or more counties, each board of county
29 commissioners concerned shall appoint representatives from its portion of the area, as
30 specified in the ordinance. If a board of county commissioners fails to make these
31 appointments within 90 days after receiving a resolution from the city council requesting
32 that they be made, the city council may make them. If the ordinance so provides, the
33 outside representatives may have equal rights, privileges, and duties with the other
34 members of the agency to which they are appointed, regardless of whether the matters at
35 issue arise within the city or within the extraterritorial area; otherwise they shall function
36 only with respect to matters within the extraterritorial area."

37 Sec. 3. This act becomes effective October 1, 1996.