

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-35
HOUSE BILL 399**

**AN ACT TO ALLOW COUNTIES WITH NO INCORPORATED MUNICIPALITIES
TO EXERCISE MOST MUNICIPAL FUNCTIONS.**

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new Article to read:

"Article 24.

"Unified Government.

"§ 153A-471. Unified government.

(a) Except as provided in this section, the powers, duties, functions, rights, privileges, and immunities of a city are vested with any county that has no portion of an incorporated municipality located within its boundaries.

(b) All of the following shall apply to any county exercising the powers, duties, functions, rights, privileges, and immunities of a city under this Article:

- (1) It may not exercise any such powers, duties, functions, rights, privileges, and immunities outside the boundaries of the county.
- (2) Article 4A of Chapter 160A of the General Statutes (Extension of Corporate Limits) does not apply.
- (3) Article 5 of Chapter 160A of the General Statutes (Form of Government) does not apply.
- (4) Article 7 of Chapter 160A of the General Statutes (Administrative Offices) does not apply.
- (5) Article 13 of Chapter 160A of the General Statutes (Law Enforcement) does not apply.
- (6) G.S. 153A-340(b) (Zoning of Bona Fide Farms) shall apply to all areas within the county boundaries.
- (7) The provisions of Chapter 163 of the General Statutes relating to municipal elections do not apply except to the extent they applied to the county absent this Article.

(c) The board of commissioners may by ordinance provide that this Article does not confer the power, duty, function, right, privilege, or immunity of a city upon the county as to a specific power, duty, function, right, privilege, or immunity, and as to such specified power, duty, function, right, privilege, or immunity it shall not be considered as a city.

(d) If the board of commissioners exercises any power, duty, function, right, privilege, or immunity authorized under both Chapter 153A and Chapter 160A of the General Statutes, and those statutes conflict, the board of commissioners shall state in their minutes under which Chapter the power, duty, function, right, privilege, or immunity is being exercised.

"§ 153A-472. Definitions.

For the purposes of this Article, any statutory reference to:

- (1) A city shall be construed as a reference to a county.
- (2) A city council or governing board shall be construed as a reference to the board of commissioners.

- (3) The mayor shall be construed as a reference to the chair of the board of commissioners.
- (4) Any other city official shall be construed as a reference to the equivalent county official.

"§ 153A-473. Applicability.

This Article only applies to a county if approved by the qualified voters of the county in a referendum called by the board of commissioners in accordance with G.S. 163-287. The referendum shall be conducted by the county board of elections in accordance with the provisions of law generally applicable to special elections. The ballot question shall be determined by the board of commissioners after consultation with the county attorney as to form."

SECTION 2. G.S. 120-166 reads as rewritten:

"§ 120-166. Additional criteria; nearness to another municipality.

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. For purposes of this section, "municipality" means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation;
or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved."

SECTION 3. G.S. 120-169 reads as rewritten:

"§ 120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by ~~G.S. 153A-1(1)~~ G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes."

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 5th day of May,
2005.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:26 a.m. this 12th day of May, 2005