

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 378

Short Title: Annexation/ETJ Residents Vote. (Public)

Sponsors: Representatives Faison, Brown, Boylan (Primary Sponsors); Blackwood, Blust, Folwell, McGee, Moore, and Walend.

Referred to: Rules, Calendar, and Operations of the House.

February 27, 2007

A BILL TO BE ENTITLED

1
2 AN ACT REQUIRING MUNICIPALITIES TO PROVIDE AN OPPORTUNITY FOR
3 QUALIFIED VOTERS WITHIN AREAS TO BE ANNEXED OR AREAS OVER
4 WHICH A MUNICIPALITY INTENDS TO EXERCISE EXTRATERRITORIAL
5 JURISDICTION TO VOTE IN ELECTIONS FOR THE OFFICERS OF THE
6 MUNICIPALITY'S GOVERNING BODY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 160A-37(e) reads as rewritten:

9 "(e) Passage of the Annexation Ordinance. – The municipal governing board shall
10 take into consideration facts presented at the public hearing and shall have authority to
11 amend the report required by G.S. 160A-35 to make changes in the plans for serving the
12 area proposed to be annexed so long as such changes meet the requirements of
13 G.S. 160A-35. At any regular or special meeting held no sooner than the tenth day
14 following the public hearing and not later than 90 days following such public hearing,
15 the governing board shall have authority to adopt an ordinance extending the corporate
16 limits of the municipality to include all, or such part, of the area described in the notice
17 of public hearing which meets the requirements of G.S. 160A-36 and which the
18 governing board has concluded should be annexed. The ordinance shall:

- 19 (1) Contain specific findings showing that the area to be annexed meets
20 the requirements of G.S. 160A-36. The external boundaries of the area
21 to be annexed shall be described by metes and bounds. In showing the
22 application of G.S. 160A-36(c) and (d) to the area, the governing
23 board may refer to boundaries set forth on a map of the area and
24 incorporate same by reference as a part of the ordinance.
- 25 (2) A statement of the intent of the municipality to provide services to the
26 area being annexed as set forth in the report required by G.S. 160A-35.
- 27 (3) A specific finding that on the effective date of annexation the
28 municipality will have funds appropriated in sufficient amount to

1 finance construction of any water and sewer lines found necessary in
2 the report required by G.S. 160A-35 to extend the basic water and/or
3 sewer system of the municipality into the area to be annexed, or that
4 on the effective date of annexation the municipality will have authority
5 to issue bonds in an amount sufficient to finance such construction. If
6 authority to issue such bonds must be secured from the electorate of
7 the municipality prior to the effective date of annexation, then the
8 effective date of annexation shall be no earlier than the day following
9 the statement of the successful result of the bond election.

- 10 (4) Fix the effective date for annexation. The effective date of annexation
11 may be fixed for any date not less than 40 days nor more than 400 days
12 from the date of passage of the ordinance. However, the annexation
13 ordinance shall not become effective unless the governing board has,
14 prior to adopting the ordinance, provided an opportunity for the
15 qualified voters residing within the area to be annexed to vote for each
16 officer of the governing board."

17 **SECTION 2.** G.S. 160A-49(e) reads as rewritten:

18 "(e) Passage of the Annexation Ordinance. – The municipal governing board shall
19 take into consideration facts presented at the public hearing and shall have authority to
20 amend the report required by G.S. 160A-47 to make changes in the plans for serving the
21 area proposed to be annexed so long as such changes meet the requirements of
22 G.S. 160A-47, provided that if the annexation report is amended to show additional
23 subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were
24 not listed in the original report, the city must hold an additional public hearing on the
25 annexation not less than 30 nor more than 90 days after the date the report is amended,
26 and notice of such new hearing shall be given at the first public hearing. At any regular
27 or special meeting held no sooner than the tenth day following the public hearing and
28 not later than 90 days following such public hearing, the governing board shall have
29 authority to adopt an ordinance extending the corporate limits of the municipality to
30 include all, or such part, of the area described in the notice of public hearing which
31 meets the requirements of G.S. 160A-48 and which the governing board has concluded
32 should be annexed. The ordinance shall:

- 33 (1) Contain specific findings showing that the area to be annexed meets
34 the requirements of G.S. 160A-48. The external boundaries of the area
35 to be annexed shall be described by metes and bounds. In showing the
36 application of G.S. 160A-48(c) and (d) to the area, the governing
37 board may refer to boundaries set forth on a map of the area and
38 incorporate same by reference as a part of the ordinance.
- 39 (2) A statement of the intent of the municipality to provide services to the
40 area being annexed as set forth in the report required by G.S. 160A-47.
- 41 (3) A specific finding that on the effective date of annexation the
42 municipality will have funds appropriated in sufficient amount to
43 finance construction of any major trunk water mains and sewer outfalls
44 and such water and sewer lines as required in G.S. 160A-47(3)b found

1 necessary in the report required by G.S. 160A-47 to extend the basic
2 water and/or sewer system of the municipality into the area to be
3 annexed, or that on the effective date of annexation the municipality
4 will have authority to issue bonds in an amount sufficient to finance
5 such construction. If authority to issue such bonds must be secured
6 from the electorate of the municipality prior to the effective date of
7 annexation, then the effective date of annexation shall be no earlier
8 than the day following the statement of the successful result of the
9 bond election.

- 10 (4) Fix the effective date for annexation. The effective date of annexation
11 may be fixed for any date not less than 70 days nor more than 400 days
12 from the date of passage of the ordinance. However, the annexation
13 ordinance shall not become effective unless the governing board has,
14 prior to adopting the ordinance, provided an opportunity for the
15 qualified voters residing within the area to be annexed to vote for each
16 officer of the governing board."

17 **SECTION 3.** G.S. 160A-360(a) reads as rewritten:

18 "(a) All of the powers granted by this Article may be exercised by any city within
19 its corporate limits. In addition, any city may exercise these powers within a defined
20 area extending not more than one mile beyond its limits. With the approval of the board
21 or boards of county commissioners with jurisdiction over the area, a city of 10,000 or
22 more population but less than 25,000 may exercise these powers over an area extending
23 not more than two miles beyond its limits and a city of 25,000 or more population may
24 exercise these powers over an area extending not more than three miles beyond its
25 limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all
26 powers conferred in this Article. No city may exercise extraterritorially any power
27 conferred by this Article that it is not exercising within its corporate limits. No city may
28 exercise extraterritorially any power conferred by this Article unless the city's governing
29 board has first provided an opportunity for the qualified voters residing within the
30 defined area to vote for each officer of the governing board. In determining the
31 population of a city for the purposes of this Article, the city council and the board of
32 county commissioners may use the most recent annual estimate of population as
33 certified by the Secretary of the North Carolina Department of Administration."

34 **SECTION 4.** G.S. 163-282 reads as rewritten:

35 **"§ 163-282. Residency defined for voting in municipal elections.**

36 The rules for determining residency within a municipality shall be the same as
37 prescribed in G.S. 163-57 for determining county residency. For purposes of eligibility
38 to vote in elections for officers of a municipality as authorized in G.S. 160A-37(e),
39 160A-49(e), and 160A-360(a), any person who is a resident of an area described in a
40 notice of public hearing under G.S. 160A-37(b) or G.S. 160A-49(b) or is a resident of
41 an area over which the municipality has expressed its intent to exercise extraterritorial
42 jurisdiction under G.S. 160A-360 or by local act is a resident of the municipality. A
43 person whose residency is based upon the person's residing in an area to be annexed or
44 an extraterritorial area is eligible to vote only in elections for officers of the city and not

1 for other types of elections. However, if an area is annexed by a municipality, residents
2 in that area may thereafter vote in all municipal elections if they are otherwise
3 registered, qualified, and eligible. No person shall be entitled to reside in more than one
4 city or town at the same time."

5 **SECTION 5.** G.S. 163-288.1 reads as rewritten:

6 "**§ 163-288.1. Activating voters for newly annexed or incorporated ~~areas~~areas, or**
7 **areas within extraterritorial planning jurisdiction.**

8 (a) Whenever any new city or special district is incorporated or whenever an
9 existing city or district ~~annexes any territory,~~ intends to annex territory under
10 G.S. 160A-37(e) or G.S. 160A-49(e) or by local act or to add territory to its
11 extraterritorial planning jurisdiction under G.S. 160A-360 or by local act, the city or
12 special district shall cause a map of the corporate or district limits or extraterritorial area
13 to be prepared from the boundary descriptions in the act, charter or other document
14 creating the city or district or authorizing or implementing the ~~annexation,~~ planned
15 annexation or extension of extraterritorial jurisdiction. The map shall be delivered to the
16 county or municipal board of elections conducting the elections for the city or special
17 district. The board of elections shall then activate for city or district elections each voter
18 eligible to vote in the city or district who is registered to vote in the county to the extent
19 that residence addresses shown on the county registration certificates can be identified
20 as within the limits of the city or special ~~district.~~ district or within the extraterritorial
21 area. Each voter whose registration is thus activated for city or special district elections
22 shall be so notified by mail. The cost of preparing the map of the newly incorporated
23 city or special district or of the ~~newly annexed area,~~ territory to be annexed or the
24 extraterritorial area, and of activating voters eligible to vote therein, shall be paid by the
25 city or special district. In lieu of the procedures set forth in this section, the county
26 board of elections may use either of the methods of registration of voters set out in
27 G.S. 163-288.2 when activating voters pursuant to the incorporation of a new city or
28 election of city officials or both under authority of an act of the General Assembly or
29 when activating voters ~~after an annexation of new territory~~ residing within territory to
30 be annexed by a city or special district under ~~Chapter 160A, Article 4A,~~ Article 4A of
31 Chapter 160A of the General Statutes or other general or local ~~law.~~ law or residing
32 within an extraterritorial area.

33 (b) Each voter whose registration is changed by the county or municipal board of
34 elections in any manner pursuant to any annexation or expunction under this subsection
35 shall be so notified by mail.

36 (c) The State Board of Elections shall have authority to adopt regulations for the
37 more detailed administration of this section."

38 **SECTION 6.** G.S. 163-288.2 reads as rewritten:

39 "**§ 163-288.2. Registration in area proposed for incorporation or ~~annexed~~annexed,**
40 **or area within extraterritorial planning jurisdiction.**

41 (a) Whenever the General Assembly incorporates a new city and provides in the
42 act of incorporation for a referendum on the question of incorporation or for a special
43 election for town officials or for both, or whenever an existing city or special district
44 ~~annexes~~ intends to annex new territory under the provisions of ~~Chapter 160A, Article~~

1 ~~4A, Article 4A of Chapter 160A of the General Statutes~~ or other general or local law, or
2 to add territory to its extraterritorial planning jurisdiction under G.S. 160A-360 or by
3 local act, the board of elections of the county in which the proposed city is located or in
4 which the ~~newly annexed territory to be annexed or the extraterritorial area~~ is located
5 shall determine those individuals eligible to vote in the referendum or special election or
6 in the city or special district elections. In determining the eligible voters the board may,
7 in its discretion, use either of the following methods:

8 METHOD A. – The board of elections shall prepare a list of those registered voters
9 residing within the proposed ~~city or newly annexed territory~~ city, the territory to be
10 annexed, or the extraterritorial area. The board shall make this list available for public
11 inspection in its office for a two-week period ending on the twenty-fifth day before the
12 day of the referendum or special election, or the next scheduled city or special district
13 election. During this period, any voter resident within the proposed ~~city or newly~~
14 ~~annexed territory~~ city, the territory to be annexed, or the extraterritorial area and not
15 included on the list may cause his name to be added to the list. At least one week and no
16 more than two weeks before the day the period of public inspection is to begin, the
17 board shall cause notice of the list's availability to be posted in at least two prominent
18 places within the proposed ~~city or newly annexed territory~~ city, the territory to be
19 annexed, or the extraterritorial area and may cause the notice to be published in a
20 newspaper of general circulation within the county. The notice shall state that the list
21 has been prepared, that only those persons listed may vote in the referendum or special
22 election, that the list will be available for public inspection in the board's office, that any
23 qualified voter not included on the list may cause his name to be added to the list during
24 the two-week period of public inspection, and that persons in ~~newly annexed~~
25 ~~territory~~ the territory to be annexed or the extraterritorial area should present themselves
26 so their registration records may be activated for voting in city or special district
27 elections in the ~~newly annexed territory~~ territory to be annexed or extraterritorial area.
28 Notice may additionally be made on a radio or television station or both, but such notice
29 shall be in addition to the newspaper and other required notice.

30 METHOD B. – The board of elections shall conduct a special registration of eligible
31 persons desiring to vote in the referendum or special election or in the ~~newly annexed~~
32 ~~territory~~ territory to be annexed or the extraterritorial area. The registration records shall
33 be open for a two-week period (except Sundays) ending on the twenty-fifth day before
34 the day of the referendum or special election or the next scheduled city or special
35 district election. On the two Saturdays during that two-week period, the records shall be
36 located at the voting place for the referendum or special election or the next scheduled
37 city or special district election; on the other days it may, in the discretion of the board,
38 be kept at the voting place, at the office of the board, or at the place of business of a
39 person designated by the board to conduct the special registration. At least one week
40 and no more than two weeks before the day the period of special registration is to begin,
41 the board shall cause notice of the registration to be posted in at least two prominent
42 places within the proposed city or ~~newly annexed~~ the territory to be annexed or the
43 extraterritorial area and may cause the notice to be published in a newspaper of general
44 circulation within the county. The notice shall state the purpose and times of the special

1 registration, the location of the registration records, that only those persons registered in
2 the special registration may vote in the referendum or special election, and that persons
3 in ~~newly annexed~~the territory to be annexed or the extraterritorial area should present
4 themselves so their registration records may be activated for voting in city or special
5 district elections in the ~~newly annexed territory~~territory to be annexed or the
6 extraterritorial area. Notice may additionally be made on a radio or television station or
7 both, but such notice shall be in addition to the newspaper and other required notice.

8 (b) Only those persons registered pursuant to this section may vote in the
9 referendum or special election, provided, however, that in cases where voters are
10 activated under either Method A or B to vote in a city or special district that ~~annexes~~
11 ~~territory~~,intends to annex new territory or to add territory to its extraterritorial planning
12 jurisdiction, the city or special district shall permit them to vote in the city or special
13 district's election and shall, as well, permit other voters to vote in such elections who did
14 not register under the provisions of this section if they are otherwise registered,
15 qualified and eligible to vote in the same."

16 **SECTION 7.** This act is effective when it becomes law and applies to
17 annexations that occur on or after that date and to annexations that have commenced
18 (evidenced by the passing of a resolution under G.S. 160A-37(a) or G.S. 160A-49(a))
19 prior to that date but do not become effective until on or after October 1, 2007. This act
20 also applies to extensions of extraterritorial jurisdiction that occur on or after the date
21 this act becomes law and to extensions that are planned (evidenced by the municipality
22 notifying owners of land in the extraterritorial jurisdiction area under
23 G.S. 160A-360(a1)) prior to that date but do not become effective until on or after
24 October 1, 2007.