

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 281

Short Title: ETJ Restrictions. (Public)

Sponsors: Representative LaRoque (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE EXTRATERRITORIAL PLANNING JURISDICTION WHEN  
COUNTYWIDE ZONING IS IN EFFECT, AND WHEN COUNTYWIDE ZONING IS  
NOT IN EFFECT, TO ALLOW RESIDENTS OF THE ETJ TO RUN FOR MUNICIPAL  
OFFICE AND VOTE IN ELECTIONS FOR MUNICIPAL OFFICE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-360 is amended by adding the following new subsections  
to read:

"(a2) Notwithstanding the provisions of this section or any local act, a city may not exercise powers granted by this Article outside its corporate limits in any county that has in force a zoning ordinance that applies in the entire unincorporated area of the county, other than areas that are in the extraterritorial jurisdiction of a city.

(a3) In order to transition any such area to county zoning, if a city is currently enforcing the powers granted by this Article in areas where subsection (a1) of this section forbids such jurisdiction, the city may continue exercising such powers until the county adopts an ordinance exercising such powers within all those areas."

**SECTION 2.** G.S. 160A-360(h) reads as rewritten:

"(h) ~~Nothing~~ Except as provided in subsection (a2) of this section, nothing in this section shall repeal, modify, or amend any local act which defines the boundaries of a city's extraterritorial jurisdiction by metes and bounds or courses and distances."

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

"(a) All of the powers granted by this Article may be exercised by any city within its corporate limits. In addition, any city may exercise these powers within a defined area extending not more than one mile beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No city may exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. Qualified voters residing within the defined area in which a city is exercising extraterritorially any power conferred by this Article may vote for elective officers of the city and be candidates for and hold such offices. If the governing board is elected by districts, the governing board shall allocate those voters to districts. In determining the population of a city for the purposes of this Article, the city council and the board of county



1 commissioners may use the most recent annual estimate of population as certified by the  
2 Secretary of the North Carolina Department of Administration."

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

4 **"§ 163-282. Residency defined for voting in municipal elections.**

5 The rules for determining residency within a municipality shall be the same as prescribed in  
6 G.S. 163-57 for determining county residency. For purposes of eligibility to vote in elections  
7 for officers of a municipality as authorized in G.S. 160A-360(a), any person who is a resident  
8 of an area over which the municipality exercises extraterritorial jurisdiction under  
9 G.S. 160A-360 or by local act is a resident of the municipality. A person whose residency is  
10 based upon the person's residing in an extraterritorial area is eligible to vote only in elections  
11 for officers of the city and not for other types of elections. However, if an area is annexed by a  
12 municipality, residents in that area may thereafter vote in all municipal elections if they are  
13 otherwise registered, qualified, and eligible. No person shall be entitled to reside in more than  
14 one city or town at the same time."

15 **SECTION 5.** G.S. 163-288.1(a) reads as rewritten:

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

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

38 **"§ 163-288.2. Registration in area proposed for incorporation or annexed.**

39 (a) Whenever the General Assembly incorporates a new city and provides in the act of  
40 incorporation for a referendum on the question of incorporation or for a special election for  
41 town officials or for both, or whenever an existing city or special district annexes new territory  
42 under the provisions of ~~Chapter 160A, Article 4A,~~ Article 4A of Chapter 160A of the General  
43 Statutes or other general or local law, or there is extraterritorial planning jurisdiction under  
44 G.S. 160A-360 or by local act, the board of elections of the county in which the proposed city  
45 is located or in which the newly annexed territory or the extraterritorial area is located shall  
46 determine those individuals eligible to vote in the referendum or special election or in the city  
47 or special district elections. In determining the eligible voters the board may, in its discretion,  
48 use either of the following methods:

49 METHOD A. – The board of elections shall prepare a list of those registered voters residing  
50 within the proposed city or newly annexed territory or the extraterritorial area. The board shall  
51 make this list available for public inspection in its office for a two-week period ending on the

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

17 METHOD B. – The board of elections shall conduct a special registration of eligible  
18 persons desiring to vote in the referendum or special election or in the newly annexed territory  
19 or the extraterritorial area. The registration records shall be open for a two-week period (except  
20 Sundays) ending on the twenty-fifth day before the day of the referendum or special election or  
21 the next scheduled city or special district election. On the two Saturdays during that two-week  
22 period, the records shall be located at the voting place for the referendum or special election or  
23 the next scheduled city or special district election; on the other days it may, in the discretion of  
24 the board, be kept at the voting place, at the office of the board, or at the place of business of a  
25 person designated by the board to conduct the special registration. At least one week and no  
26 more than two weeks before the day the period of special registration is to begin, the board  
27 shall cause notice of the registration to be posted in at least two prominent places within the  
28 proposed city or newly annexed territory or the extraterritorial area and may cause the notice to  
29 be published in a newspaper of general circulation within the county. The notice shall state the  
30 purpose and times of the special registration, the location of the registration records, that only  
31 those persons registered in the special registration may vote in the referendum or special  
32 election, and that persons in the newly annexed territory or the extraterritorial area should  
33 present themselves so their registration records may be activated for voting in city or special  
34 district elections in the newly annexed ~~territory.~~ territory or the extraterritorial area. Notice may  
35 additionally be made on a radio or television station or both, but such notice shall be in addition  
36 to the newspaper and other required notice.

37 (b) Only those persons registered pursuant to this section may vote in the referendum or  
38 special election, provided, however, that in cases where voters are activated under either  
39 Method A or B to vote in a city or special district that annexes territory, the city or special  
40 district shall permit them to vote in the city or special district's election and shall, as well,  
41 permit other voters to vote in such elections who did not register under the provisions of this  
42 section if they are otherwise registered, qualified and eligible to vote in the same."

43 **SECTION 7.** This act is effective when it becomes law and applies to elections  
44 occurring on or after September 1, 2011.