

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 773

Short Title: Clarify Annexation Remand.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Judiciary I.

April 7, 1999

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE TIME FOR ACTION ON REMAND FOLLOWING COURT REVIEW OF ANNEXATIONS ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-50(g) reads as rewritten:

"(g) The court may affirm the action of the governing board without change, or it may

(1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.

(2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-48 if it finds that the provisions of G.S. 160A-48 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.

(3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-47 are satisfied.

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- 1 (4) Declare the ordinance null and void, if the court finds that the ordinance
2 cannot be corrected by remand as provided in subdivisions (1), (2), or
3 (3) of this subsection.

4 If any municipality shall fail to take action in accordance with the court's instructions
5 upon remand within ~~three months~~ 90 days from receipt of such ~~following entry of the order~~
6 embodying the court's instructions, the annexation proceeding shall be deemed null and
7 void."

8 Section 2. G.S. 160A-38(g) reads as rewritten:

9 "(g) The court may affirm the action of the governing board without change, or it
10 may

- 11 (1) Remand the ordinance to the municipal governing board for further
12 proceedings if procedural irregularities are found to have materially
13 prejudiced the substantive rights of any of the petitioners.
14 (2) Remand the ordinance to the municipal governing board for amendment
15 of the boundaries to conform to the provisions of G.S. 160A-36 if it
16 finds that the provisions of G.S. 160A-36 have not been met; provided,
17 that the court cannot remand the ordinance to the municipal governing
18 board with directions to add area to the municipality which was not
19 included in the notice of public hearing and not provided for in plans for
20 service.
21 (3) Remand the report to the municipal governing board for amendment of
22 the plans for providing services to the end that the provisions of G.S.
23 160A-35 are satisfied.
24 (4) Declare the ordinance null and void, if the court finds that the ordinance
25 cannot be corrected by remand as provided in subdivisions (1), (2), or
26 (3) of this subsection.

27 If any municipality shall fail to take action in accordance with the court's instructions
28 upon remand within ~~three months~~ 90 days from receipt of such ~~following entry of the order~~
29 embodying the court's instructions, the annexation proceeding shall be deemed null and
30 void."

31 Section 3. This act is effective with respect to ordinances remanded on or after
32 October 1, 1999.