

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 460

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

Sponsors: Representatives Faison, Allred (Primary Sponsors); and Dollar.

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

March 3, 2005

A BILL TO BE ENTITLED

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

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
29 finance construction of any water and sewer lines found necessary in

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

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

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

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

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

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

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

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

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

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

34 **"§ 163-282. Residency defined for voting in municipal elections.**

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

1 that area may thereafter vote in all municipal elections if they are otherwise registered,
2 qualified, and eligible. No person shall be entitled to reside in more than one city or
3 town at the same time."

4 **SECTION 4.** G.S. 163-288.1(a) reads as rewritten:

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

30 **SECTION 5.** G.S. 163-288.2 reads as rewritten:

31 **"§ 163-288.2. Registration in area proposed for incorporation or annexed.**

32 (a) Whenever the General Assembly incorporates a new city and provides in the
33 act of incorporation for a referendum on the question of incorporation or for a special
34 election for town officials or for both, or whenever an existing city or special district
35 ~~annexes~~ intends to annex new territory under the provisions of ~~Chapter 160A, Article~~
36 4A, Article 4A of Chapter 160A of the General Statutes or other general or local law, or
37 to add territory to its extraterritorial planning jurisdiction under G.S. 160A-360 or by
38 local act, the board of elections of the county in which the proposed city is located or in
39 which the ~~newly annexed territory to be annexed or the extraterritorial area~~ is located
40 shall determine those individuals eligible to vote in the referendum or special election or
41 in the city or special district elections. In determining the eligible voters the board may,
42 in its discretion, use either of the following methods:

43 METHOD A. – The board of elections shall prepare a list of those registered voters
44 residing within the proposed ~~city or newly annexed territory,~~city, the territory to be

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

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

43 (b) Only those persons registered pursuant to this section may vote in the
44 referendum or special election, provided, however, that in cases where voters are

1 activated under either Method A or B to vote in a city or special district that annexes
2 territory, the city or special district shall permit them to vote in the city or special
3 district's election and shall, as well, permit other voters to vote in such elections who did
4 not register under the provisions of this section if they are otherwise registered,
5 qualified and eligible to vote in the same."

6 **SECTION 6.** This act is effective when it becomes law and applies to
7 annexations that occur on or after that date and to annexations that have commenced
8 (evidenced by the passing of a resolution under G.S. 160A-37(a) or G.S. 160A-49(a))
9 prior to that date but do not become effective until on or after October 1, 2005. This act
10 also applies to extensions of extraterritorial jurisdiction that occur on or after the date
11 this act becomes law and to extensions that are planned (evidenced by the municipality
12 notifying owners of land in the ETJ area under G.S. 160A-360(a1)) prior to that date but
13 do not become effective until on or after October 1, 2005.