

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 918

Short Title: County Preannexation Approval.

(Public)

Sponsors: Representatives Daughtry; and McComas.

Referred to: Judiciary I.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A CITY SHALL NOT EXTEND ITS TERRITORIAL
2 JURISDICTION ACROSS COUNTY BOUNDARIES WITHOUT THE PRIOR
3 APPROVAL OF THE BOARD OR BOARDS OF COUNTY COMMISSIONERS
4 WITH JURISDICTION OVER THE AREA.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 160A-360 reads as rewritten:

8 **"§ 160A-360. Territorial jurisdiction.**

9 (a) All of the powers granted by this Article may be exercised by any city within
10 its corporate limits. In addition, any city may exercise these powers within a defined area
11 extending not more than one mile beyond its ~~limits~~-limits, except that a city may not
12 exercise these powers in a county other than the one that its primary land area is in unless
13 the city obtains the prior approval of the board or boards of county commissioners with
14 jurisdiction over the area.

15 (a1) With the approval of the board or boards of county commissioners with
16 jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may
17 exercise these powers over an area extending not more than two miles beyond its limits
18 and a city of 25,000 or more population may exercise these powers over an area
19 extending not more than three miles beyond its limits. The boundaries of the city's
20 extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No

1 city may exercise extraterritorially any power conferred by this Article that it is not
2 exercising within its corporate limits. In determining the population of a city for the
3 purposes of this Article, the city council and the board of county commissioners may use
4 the most recent annual estimate of population as certified by the Secretary of the North
5 Carolina Department of Administration.

6 (b) Any council wishing to exercise extraterritorial jurisdiction under this Article
7 shall adopt, and may amend from time to time, an ordinance specifying the areas to be
8 included based upon existing or projected urban development and areas of critical
9 concern to the city, as evidenced by officially adopted plans for its development.
10 Boundaries shall be defined, to the extent feasible, in terms of geographical features
11 identifiable on the ground. A council ~~may, in its discretion, shall~~ exclude from its
12 extraterritorial jurisdiction areas lying in ~~another county, a county other than the one that~~
13 its primary land area is in unless the council has obtained the prior approval of the board
14 or boards of county commissioners with jurisdiction over the areas. A council may, in its
15 discretion, exclude areas separated from the city by barriers to urban ~~growth, growth~~ or
16 areas whose projected development will have minimal impact on the city. The boundaries
17 specified in the ordinance shall at all times be drawn on a map, set forth in a written
18 description, or shown by a combination of these techniques. This delineation shall be
19 maintained in the manner provided in G.S. 160A-22 for the delineation of the corporate
20 limits, and shall be recorded in the office of the register of deeds of each county in which
21 any portion of the area lies.

22 (c) Where the extraterritorial jurisdiction of two or more cities overlaps, the
23 jurisdictional boundary between them shall be a line connecting the midway points of the
24 overlapping area unless the city councils agree to another boundary line within the
25 overlapping area based upon existing or projected patterns of development.

26 (d) If a city fails to adopt an ordinance specifying the boundaries of its
27 extraterritorial jurisdiction, the county of which it is a part shall be authorized to exercise
28 the powers granted by this Article in any area beyond the city's corporate limits. The
29 county may also, on request of the city council, exercise any or all these powers in any or
30 all areas lying within the city's corporate limits or within the city's specified area of
31 extraterritorial jurisdiction.

32 (e) No city may hereafter extend its extraterritorial powers under this Article into
33 any area for which the county at that time has adopted and is enforcing a zoning
34 ordinance and subdivision regulations and within which it is enforcing the State Building
35 Code. However, the city may do so where the county is not exercising all three of these
36 powers, or when the city and the county have agreed upon the area within which each
37 will exercise the powers conferred by this Article.

38 (f) When a city annexes, or a new city is incorporated in, or a city extends its
39 jurisdiction to include, an area that is currently being regulated by the county, the county
40 regulations and powers of enforcement shall remain in effect until (i) the city has adopted
41 such regulations, or (ii) a period of 60 days has elapsed following the annexation,
42 extension or incorporation, whichever is sooner. During this period the city may hold

1 hearings and take any other measures that may be required in order to adopt its
2 regulations for the area.

3 (f1) When a city relinquishes jurisdiction over an area that it is regulating under
4 this Article to a county, the city regulations and powers of enforcement shall remain in
5 effect until (i) the county has adopted this regulation or (ii) a period of 60 days has
6 elapsed following the action by which the city relinquished jurisdiction, whichever is
7 sooner. During this period the county may hold hearings and take other measures that
8 may be required in order to adopt its regulations for the area.

9 (g) When a local government is granted powers by this section subject to the
10 request, approval, or agreement of another local government, the request, approval, or
11 agreement shall be evidenced by a formally adopted resolution of that government's
12 legislative body. Any such request, approval, or agreement can be rescinded upon two
13 years' written notice to the other legislative bodies concerned by repealing the resolution.
14 The resolution may be modified at any time by mutual agreement of the legislative bodies
15 concerned.

16 (h) Nothing in this section shall repeal, modify, or amend any local act which
17 defines the boundaries of a city's extraterritorial jurisdiction by metes and bounds or
18 courses and distances.

19 (h1) Where a city has extended its territorial jurisdiction across county boundaries
20 to a defined area pursuant to a local act enacted after July 1, 1991, the board or boards of
21 county commissioners with jurisdiction over the area may by resolution rescind the
22 extension of the city's territorial jurisdiction into the county. Upon adoption of a
23 resolution by a board of county commissioners denying approval pursuant to this section,
24 the county shall acquire jurisdiction over the defined area as provided by subsection (i) of
25 this section.

26 (i) Whenever a city or county, pursuant to this section, acquires jurisdiction over a
27 territory that theretofore has been subject to the jurisdiction of another local government,
28 any person who has acquired vested rights under a permit, certificate, or other evidence
29 of compliance issued by the local government surrendering jurisdiction may exercise
30 those rights as if no change of jurisdiction had occurred. The city or county acquiring
31 jurisdiction may take any action regarding such a permit, certificate, or other evidence of
32 compliance that could have been taken by the local government surrendering jurisdiction
33 pursuant to its ordinances and regulations. Except as provided in this subsection, any
34 building, structure, or other land use in a territory over which a city or county has
35 acquired jurisdiction is subject to the ordinances and regulations of the city or county.

36 (j) Repealed by Session Laws 1973, c. 669, s. 1."
37 Sec. 2. This act is effective upon ratification.