

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 302

Short Title: Annexation Referendum. (Public)

Sponsors: Representatives Dollar, Walend (Primary Sponsors); Allred, Blackwood, Cleveland, Culp, and Starnes.

Referred to: Election Law and Campaign Finance Reform.

February 21, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR REFERENDA ON ANNEXATIONS IF REQUESTED
BY RESIDENTS OF THE AREA TO BE ANNEXED.

The General Assembly of North Carolina enacts:

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

"(e) Passage of the Annexation Ordinance. – The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than the tenth day following the public hearing and not later than 90 days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-36 and which the governing board has concluded should be ~~annexed~~annexed, provided if no later than adjournment of the public hearing, a petition, signed by the owners of ten percent (10%) of the registered voters in the area proposed to be annexed is received by the city, opposing the annexation, then the annexation ordinance shall become effective only if approved by the voters of the area to be annexed in a referendum conducted under subsection (e1) of this section. Prior to being submitted to the city, the petition must be verified by the board or boards of elections administering elections for that city. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-36. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-36(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.

- 1 (2) A statement of the intent of the municipality to provide services to the
2 area being annexed as set forth in the report required by G.S. 160A-35.
- 3 (3) A specific finding that on the effective date of annexation the
4 municipality will have funds appropriated in sufficient amount to
5 finance construction of any water and sewer lines found necessary in
6 the report required by G.S. 160A-35 to extend the basic water and/or
7 sewer system of the municipality into the area to be annexed, or that
8 on the effective date of annexation the municipality will have authority
9 to issue bonds in an amount sufficient to finance such construction. If
10 authority to issue such bonds must be secured from the electorate of
11 the municipality prior to the effective date of annexation, then the
12 effective date of annexation shall be no earlier than the day following
13 the statement of the successful result of the bond election.
- 14 (4) Fix the effective date for annexation. The effective date of annexation
15 may be fixed for any date not less than 40 days nor more than 400 days
16 from the date of passage of the ordinance."

17 **SECTION 2.** G.S. 160A-37 is amended by adding a new subsection to read:

18 "(e1) Conduct of Election. – If a referendum is required under subsection (e) of this
19 section, the city council shall order the board or boards of elections which conducts
20 elections for that city to call an election to determine whether or not the proposed
21 territory shall be annexed to the city or town. Within 90 days after receiving the order
22 from the governing body, the county board of elections shall proceed to hold an election
23 on the question.

24 The election shall be called by a resolution or resolutions of the county board of
25 elections which shall:

- 26 (1) Describe the territory proposed to be annexed to the city or town as set
27 out in the order of the local governing body.
- 28 (2) Provide that the matter of annexation of the territory shall be submitted
29 to the vote of the qualified voters of the territory proposed to be
30 annexed.
- 31 (3) Provide for registration of voters in the territory proposed to be
32 annexed for the election in accordance with G.S. 163-288.2.

33 The resolution shall be published in one or more newspapers of the county once a
34 week for 30 days prior to the closing of the registration books. All costs of holding the
35 election shall be paid by the city or town. Except as herein provided, the election shall
36 be held under the same statutes, rules, and regulations as are applicable to elections in
37 the municipality whose corporate limits are being enlarged.

38 In the election, the question on the ballot shall be:

39 ' [] FOR [] AGAINST
40 Annexation.'

41 If a majority of the votes cast from the area proposed for annexation shall be 'For
42 Annexation', the annexation ordinance shall become effective as provided by this Part."

43 **SECTION 3.** G.S. 160A-49(e) reads as rewritten:

1 "(e) Passage of the Annexation Ordinance. – The municipal governing board shall
2 take into consideration facts presented at the public hearing and shall have authority to
3 amend the report required by G.S. 160A-47 to make changes in the plans for serving the
4 area proposed to be annexed so long as such changes meet the requirements of
5 G.S. 160A-47, provided that if the annexation report is amended to show additional
6 subsections of G.S.160A-48(c) or (d) under which the annexation qualifies that were not
7 listed in the original report, the city must hold an additional public hearing on the
8 annexation not less than 30 nor more than 90 days after the date the report is amended,
9 and notice of such new hearing shall be given at the first public hearing. At any regular
10 or special meeting held no sooner than the tenth day following the public hearing and
11 not later than 90 days following such public hearing, the governing board shall have
12 authority to adopt an ordinance extending the corporate limits of the municipality to
13 include all, or such part, of the area described in the notice of public hearing which
14 meets the requirements of G.S. 160A-48 and which the governing board has concluded
15 should be ~~annexed~~annexed, provided if no later than adjournment of the public hearing,
16 a petition, signed by the owners of ten percent (10%) of the registered voters in the area
17 proposed to be annexed is received by the city, opposing the annexation, then the
18 annexation ordinance shall become effective only if approved by the voters of the area
19 to be annexed in a referendum conducted under subsection (e1) of this section. Prior to
20 being submitted to the city, the petition must be verified by the board or boards of
21 elections administering elections for that city. The ordinance shall:

- 22 (1) Contain specific findings showing that the area to be annexed meets
23 the requirements of G.S. 160A-48. The external boundaries of the area
24 to be annexed shall be described by metes and bounds. In showing the
25 application of G.S. 160A-48(c) and (d) to the area, the governing
26 board may refer to boundaries set forth on a map of the area and
27 incorporate same by reference as a part of the ordinance.
- 28 (2) A statement of the intent of the municipality to provide services to the
29 area being annexed as set forth in the report required by G.S. 160A-47.
- 30 (3) A specific finding that on the effective date of annexation the
31 municipality will have funds appropriated in sufficient amount to
32 finance construction of any major trunk water mains and sewer outfalls
33 and such water and sewer lines as required in G.S. 160A-47(3)b found
34 necessary in the report required by G.S. 160A-47 to extend the basic
35 water and/or sewer system of the municipality into the area to be
36 annexed, or that on the effective date of annexation the municipality
37 will have authority to issue bonds in an amount sufficient to finance
38 such construction. If authority to issue such bonds must be secured
39 from the electorate of the municipality prior to the effective date of
40 annexation, then the effective date of annexation shall be no earlier
41 than the day following the statement of the successful result of the
42 bond election.

- 1 (4) Fix the effective date for annexation. The effective date of annexation
2 may be fixed for any date not less than 70 days nor more than 400 days
3 from the date of passage of the ordinance."

4 **SECTION 4.** G.S. 160A-49 is amended by adding a new subsection to read:

5 "(e1) Conduct of Election. – If a referendum is required under subsection (e) of this
6 section, the city council shall order the board or boards of elections which conducts
7 elections for that city to call an election to determine whether or not the proposed
8 territory shall be annexed to the city or town. Within 90 days after receiving the order
9 from the governing body, the county board of elections shall proceed to hold an election
10 on the question.

11 The election shall be called by a resolution or resolutions of the county board of
12 elections which shall:

- 13 (1) Describe the territory proposed to be annexed to the city or town as set
14 out in the order of the local governing body.
15 (2) Provide that the matter of annexation of the territory shall be submitted
16 to the vote of the qualified voters of the territory proposed to be
17 annexed.
18 (3) Provide for registration of voters in the territory proposed to be
19 annexed for the election in accordance with G.S. 163-288.2.

20 The resolution shall be published in one or more newspapers of the county once a
21 week for 30 days prior to the closing of the registration books. All costs of holding the
22 election shall be paid by the city or town. Except as herein provided, the election shall
23 be held under the same statutes, rules, and regulations as are applicable to elections in
24 the municipality whose corporate limits are being enlarged.

25 In the election, the question on the ballot shall be:

26 [] FOR [] AGAINST
27 Annexation.'

28 If a majority of the votes cast from the area proposed for annexation shall be 'For
29 Annexation', the annexation ordinance shall become effective as provided by this Part."

30 **SECTION 5.** This act is effective when it becomes law.