

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**D**

**HOUSE DRH50023-LB-28 (1/19)**

Short Title: Vote on ETJ Extensions.

(Public)

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Sponsors: Representative Allred.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO REQUIRE VOTER APPROVAL FOR THE EXTENSION OF  
MUNICIPAL EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-360 reads as rewritten:

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

(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. In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration.

(a1) Any municipality planning to exercise extraterritorial jurisdiction under this Article shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a public hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as

1 provided in G.S. 160A-364, and the right of all residents of the area to apply to the  
2 board of county commissioners to serve as a representative on the planning agency and  
3 the board of adjustment, as provided in G.S. 160A-362. The notice shall be mailed at  
4 least four weeks prior to the public hearing. The person or persons mailing the notices  
5 shall certify to the city council that the notices were sent by first-class mail, and the  
6 certificate shall be deemed conclusive in the absence of fraud.

7 (a2) In addition to any other requirement of this section or any local act, in order  
8 for a city to exercise powers under this Article in any area beyond the corporate limits  
9 of the city, the extension of jurisdiction must be approved under subsection (a3) of this  
10 section.

11 (a3) Conduct of Election. – If a referendum is required under subsection (a2) of  
12 this section, the city council shall order the board or boards of elections which conduct  
13 elections for that city to call an election to determine whether or not the proposed  
14 territory shall be included in the extraterritorial planning jurisdiction of the city or town.  
15 Within 90 days after receiving the order from the governing body, the county board of  
16 elections shall proceed to hold an election on the question.

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

- 19 (1) Describe the territory proposed to be included in the extraterritorial  
20 planning jurisdiction of the city or town as set out in the order of the  
21 local governing body.
- 22 (2) Provide that the matter of inclusion of the territory shall be submitted  
23 to the vote of the qualified voters of the territory proposed to be  
24 included.
- 25 (3) Provide for registration of voters in the territory proposed to be  
26 included for the election in accordance with G.S. 163-288.2.

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

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

33 [ ] FOR [ ] AGAINST

34 Inclusion in the extraterritorial planning jurisdiction of [INSERT NAME OF  
35 MUNICIPALITY].'

36 If a majority of the votes cast from the area proposed for inclusion shall be 'For  
37 Inclusion', the ordinance shall become effective as provided by this section.

38 (b) Any council wishing to exercise extraterritorial jurisdiction under this Article  
39 shall adopt, and may amend from time to time, an ordinance specifying the areas to be  
40 included based upon existing or projected urban development and areas of critical  
41 concern to the city, as evidenced by officially adopted plans for its development.  
42 Boundaries shall be defined, to the extent feasible, in terms of geographical features  
43 identifiable on the ground. A council may, in its discretion, exclude from its  
44 extraterritorial jurisdiction areas lying in another county, areas separated from the city

1 by barriers to urban growth, or areas whose projected development will have minimal  
2 impact on the city. The boundaries specified in the ordinance shall at all times be drawn  
3 on a map, set forth in a written description, or shown by a combination of these  
4 techniques. This delineation shall be maintained in the manner provided in  
5 G.S. 160A-22 for the delineation of the corporate limits, and shall be recorded in the  
6 office of the register of deeds of each county in which any portion of the area lies.

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

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

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

23 (f) When a city annexes, or a new city is incorporated in, or a city extends its  
24 jurisdiction to include, an area that is currently being regulated by the county, the  
25 county regulations and powers of enforcement shall remain in effect until (i) the city has  
26 adopted such regulations, or (ii) a period of 60 days has elapsed following the  
27 annexation, extension or incorporation, whichever is sooner. During this period the city  
28 may hold hearings and take any other measures that may be required in order to adopt  
29 its regulations for the area.

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

36 (g) When a local government is granted powers by this section subject to the  
37 request, approval, or agreement of another local government, the request, approval, or  
38 agreement shall be evidenced by a formally adopted resolution of that government's  
39 legislative body. Any such request, approval, or agreement can be rescinded upon two  
40 years' written notice to the other legislative bodies concerned by repealing the  
41 resolution. The resolution may be modified at any time by mutual agreement of the  
42 legislative bodies concerned.

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

4 (i) Whenever a city or county, pursuant to this section, acquires jurisdiction over  
5 a territory that theretofore has been subject to the jurisdiction of another local  
6 government, any person who has acquired vested rights under a permit, certificate, or  
7 other evidence of compliance issued by the local government surrendering jurisdiction  
8 may exercise those rights as if no change of jurisdiction had occurred. The city or  
9 county acquiring jurisdiction may take any action regarding such a permit, certificate, or  
10 other evidence of compliance that could have been taken by the local government  
11 surrendering jurisdiction pursuant to its ordinances and regulations. Except as provided  
12 in this subsection, any building, structure, or other land use in a territory over which a  
13 city or county has acquired jurisdiction is subject to the ordinances and regulations of  
14 the city or county.

15 (j) Repealed by Session Laws 1973, c. 669, s. 1."

16 **SECTION 2.** This act applies with respect to all extensions of extraterritorial  
17 jurisdiction under this section approved on or after the date this act becomes law.

18 **SECTION 3.** This act is effective when it becomes law.