

§ 162A-87. Creation of district; standards; limitation of actions.

(a) Following the public hearing, the board of commissioners may, by resolution, create a county water and sewer district if the board finds that:

- (1) There is a demonstrable need for providing in the district water services, or sewer services, or both;
- (2) The residents of all the territory to be included in the district will benefit from the district's creation; and
- (3) It is economically feasible to provide the proposed service or services in the district without unreasonable or burdensome annual tax levies.

Territory lying within the corporate limits of a city or town may not be included in the district unless the governing body of the city or town agrees by resolution to such inclusion. Otherwise, the board of commissioners may define as the district all or any portion of the territory described in the notice of the public hearing.

(b) Upon adoption of a resolution creating a county water and sewer district, the board of commissioners shall cause the resolution to be published once in each of two successive weeks in the newspaper in which the notices of the hearing were published. In addition, the commissioners shall cause to be published with the resolution a notice in substantially the following form:

"The foregoing resolution was adopted by the _____ County Board of Commissioners on _____ and was first published on _____.

Any action or proceeding questioning the validity of this resolution or the creation of the _____ Water and Sewer District of _____ County or the inclusion in the district of any of the territory described in the resolution must be commenced within 30 days after the first publication of the resolution.

Clerk, _____ County Board of
Commissioners"

Any action or proceeding in any court to set aside a resolution creating a county water and sewer district, or questioning the validity of such a resolution, the creation of such a district, or the inclusion in such a district of any of the territory described in the resolution creating the district must be commenced within 30 days after the first publication of the resolution and notice. After the expiration of this period of limitation, no right of action or defense founded upon the invalidity of the resolution, the creation of the district, or the inclusion of any territory in the district may be asserted, nor may the validity of the resolution, the creation of the district, or the inclusion of the territory be open to question in any court upon any ground whatever, except in an action or proceeding commenced within that period.

Notwithstanding any other provision of this section, in the case of any county water and sewer districts created under G.S. 162A-86(b1):

- (1) A resolution may cover the creation of more than one district;
- (2) The board of commissioners shall cause the resolution to be published once in the newspaper in which the notice of the hearing was published; and
- (3) References in this subsection to "30 days" are instead "21 days". (1977, c. 466, s. 1; 1979, c. 624, s. 4; 1993 (Reg. Sess., 1994), c. 696, s. 2; c. 714, s. 2.)