

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 650**

Short Title: Polk Annexation Referendum.

(Local)

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Sponsors: Senator Apodaca.

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Referred to: State & Local Government.

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March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE IN POLK COUNTY FOR REFERENDA ON ANNEXATIONS IF REQUESTED BY RESIDENTS OF THE AREA TO BE ANNEXED AND TO GENERALLY PROHIBIT SUBDIVISIONS FROM BEING DIVIDED DURING AN INVOLUNTARY ANNEXATION.

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 twenty percent (20%) 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

1 board may refer to boundaries set forth on a map of the area and  
2 incorporate same by reference as a part of the ordinance.

3 (2) A statement of the intent of the municipality to provide services to the  
4 area being annexed as set forth in the report required by G.S. 160A-35.

5 (3) A specific finding that on the effective date of annexation the  
6 municipality will have funds appropriated in sufficient amount to  
7 finance construction of any water and sewer lines found necessary in  
8 the report required by G.S. 160A-35 to extend the basic water and/or  
9 sewer system of the municipality into the area to be annexed, or that  
10 on the effective date of annexation the municipality will have authority  
11 to issue bonds in an amount sufficient to finance such construction. If  
12 authority to issue such bonds must be secured from the electorate of  
13 the municipality prior to the effective date of annexation, then the  
14 effective date of annexation shall be no earlier than the day following  
15 the statement of the successful result of the bond election.

16 (4) Fix the effective date for annexation. The effective date of annexation  
17 may be fixed for any date not less than 40 days nor more than 400 days  
18 from the date of passage of the ordinance."

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

20 "(e1) Conduct of Election. – If a referendum is required under subsection (e) of this  
21 section, the city council shall order the board or boards of elections which conduct  
22 elections for that city to call an election to determine whether or not the proposed  
23 territory shall be annexed to the city or town. Within 100 days after receiving the order  
24 from the governing body, the county board of elections shall proceed to hold an election  
25 on the question.

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

28 (1) Describe the territory proposed to be annexed to the city or town as set  
29 out in the order of the local governing body.

30 (2) Provide that the matter of annexation of the territory shall be submitted  
31 to the vote of the qualified voters of the territory proposed to be  
32 annexed.

33 (3) Provide for registration of voters in the territory proposed to be  
34 annexed for the election in accordance with G.S. 163-288.2.

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

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

41 [ ] FOR [ ] AGAINST  
42 Annexation.'

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

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

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

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

31 "(b) The total area to be annexed must meet the following standards:

- 32 (1) It must be adjacent or contiguous to the municipality's boundaries at  
33 the time the annexation proceeding is begun, except if the entire  
34 territory of a county water and sewer district created under  
35 G.S. 162A-86(b1) is being annexed, the annexation shall also include  
36 any noncontiguous pieces of the district as long as the part of the  
37 district with the greatest land area is adjacent or contiguous to the  
38 municipality's boundaries at the time the annexation proceeding is  
39 begun.  
40 (2) At least one eighth of the aggregate external boundaries of the area  
41 must coincide with the municipal boundary.  
42 (3) No part of the area shall be included within the boundary of another  
43 incorporated municipality.

- 1           (4) If the area proposed for annexation, or any portion thereof, is a  
2           subdivision as defined in G.S. 160A-376, all of the subdivision must  
3           be included, excepting:  
4           a. Any part of the subdivision within the boundary of another  
5           municipality, and  
6           b. If the subdivision lies in more than one county, only the part  
7           within one county need be annexed."

8           **SECTION 6.** G.S. 160A-48(b) reads as rewritten:

9           "(b) The total area to be annexed must meet the following standards:

- 10           (1) It must be adjacent or contiguous to the municipality's boundaries at  
11           the time the annexation proceeding is begun, except if the entire  
12           territory of a county water and sewer district created under  
13           G.S. 162A-86(b1) is being annexed, the annexation shall also include  
14           any noncontiguous pieces of the district as long as the part of the  
15           district with the greatest land area is adjacent or contiguous to the  
16           municipality's boundaries at the time the annexation proceeding is  
17           begun.  
18           (2) At least one eighth of the aggregate external boundaries of the area  
19           must coincide with the municipal boundary.  
20           (3) No part of the area shall be included within the boundary of another  
21           incorporated municipality.  
22           (4) If the area proposed for annexation, or any portion thereof, is a  
23           subdivision as defined in G.S. 160A-376, all of the subdivision must  
24           be included, excepting:  
25           a. Any part of the subdivision within the boundary of another  
26           municipality, and  
27           b. If the subdivision lies in more than one county, only the part  
28           within one county need be annexed."

29           **SECTION 7.** This act applies in Polk County only.

30           **SECTION 8.** This act is effective when it becomes law and applies to any  
31           annexation ordinance adopted on or after that date.