

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 399  
Committee Substitute Favorable 3/16/05

Short Title: Unified Government.

(Public)

---

Sponsors:

---

Referred to:

---

March 1, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW COUNTIES WITH NO INCORPORATED MUNICIPALITIES  
3 TO EXERCISE MOST MUNICIPAL FUNCTIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 153A of the General Statutes is amended by adding a  
6 new Article to read:

7 "Article 24.

8 "Unified Government.

9 **§ 153A-471. Unified government.**

10 (a) Except as provided in this section, the powers, duties, functions, rights,  
11 privileges, and immunities of a city are vested with any county that has no portion of an  
12 incorporated municipality located within its boundaries.

13 (b) All of the following shall apply to any county exercising the powers, duties,  
14 functions, rights, privileges, and immunities of a city under this Article:

15 (1) It may not exercise any such powers, duties, functions, rights,  
16 privileges, and immunities outside the boundaries of the county.

17 (2) Article 4A of Chapter 160A of the General Statutes (Extension of  
18 Corporate Limits) does not apply.

19 (3) Article 5 of Chapter 160A of the General Statutes (Form of  
20 Government) does not apply.

21 (4) Article 7 of Chapter 160A of the General Statutes (Administrative  
22 Offices) does not apply.

23 (5) Article 13 of Chapter 160A of the General Statutes (Law Enforcement)  
24 does not apply.

25 (6) The provisions of Chapter 163 of the General Statutes relating to  
26 municipal elections do not apply except to the extent they applied to  
27 the county absent this Article.

28 (c) The board of commissioners may by ordinance provide that this Article does  
29 not confer the power, duty, function, right, privilege, or immunity of a city upon the

1 county as to a specific power, duty, function, right, privilege, or immunity, and as to  
2 such specified power, duty, function, right, privilege, or immunity it shall not be  
3 considered as a city.

4 (d) If the board of commissioners exercises any power, duty, function, right,  
5 privilege, or immunity authorized under both Chapter 153A and Chapter 160A and  
6 those statutes conflict, the board of commissioners shall state in their minutes under  
7 which Chapter the power, duty, function, right, privilege, or immunity is being  
8 exercised.

9 **"§ 153A-472. Definitions.**

10 For the purposes of this Article, any statutory reference to:

11 (1) A city shall be construed as a reference to a county.

12 (2) A city council or governing board shall be construed as a reference to  
13 the board of commissioners.

14 (3) The mayor shall be construed as a reference to the chair of the board of  
15 commissioners.

16 (4) Any other city official shall be construed as a reference to the  
17 equivalent county official.

18 **"§ 153A-473. Applicability.**

19 This Article only applies to a county if approved by the qualified voters of the  
20 county in a referendum called by the board of commissioners in accordance with  
21 G.S. 163-287. The referendum shall be conducted by the county board of elections in  
22 accordance with the provisions of law generally applicable to special elections. The  
23 ballot question shall be determined by the board of commissioners after consultation  
24 with the county attorney as to form."

25 **SECTION 2.** G.S. 120-166 reads as rewritten:

26 **"§ 120-166. Additional criteria; nearness to another municipality.**

27 (a) The Commission may not make a positive recommendation if the proposed  
28 municipality is located within one mile of a municipality of 5,000 to 9,999, within three  
29 miles of a municipality of 10,000 to 24,999, within four miles of a municipality of  
30 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to  
31 the most recent decennial federal census, or according to the most recent annual  
32 estimate of the Office of State Budget and Management if the municipality was  
33 incorporated since the return of that census. For purposes of this section, "municipality"  
34 means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority  
35 under Article 24 of Chapter 153A.

36 (b) Subsection (a) of this section does not apply in the case of proximity to a  
37 specific municipality if:

38 (1) The proposed municipality is entirely on an island that the nearby city  
39 is not on;

40 (2) The proposed municipality is separated by a major river or other  
41 natural barrier from the nearby city, such that provision of municipal  
42 services by the nearby city to the proposed municipality is infeasible or  
43 the cost is prohibitive, and the Commission shall adopt policies to  
44 implement this subdivision;

- 1           (3)    The municipalities within the distances described in subsection (a) of  
2           this section by resolution express their approval of the incorporation;  
3           or  
4           (4)    An area of at least fifty percent (50%) of the proposed municipality  
5           has petitioned for annexation to the nearby city under G.S. 160A-31  
6           within the previous 12 months before the incorporation petition is  
7           submitted to the Commission but the annexation petition was not  
8           approved."

9           **SECTION 3.** G.S. 120-169 reads as rewritten:

10       **"§ 120-169. Additional criteria; area unincorporated.**

11       The Commission may not make a positive recommendation if any of the proposed  
12       municipality is included within the boundary of another incorporated municipality, as  
13       defined by ~~G.S. 153A-1(1)~~G.S. 153A-1(1), or if any of the proposed municipality is  
14       included within the boundary of a county that has exercised its authority under Article  
15       24 of Chapter 153A of the General Statutes."

16       **SECTION 4.** This act is effective when it becomes law.