

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1168
Committee Substitute Favorable 4/26/07

Short Title: Pitt County Protest Petitions.

(Local)

Sponsors:

Referred to:

March 29, 2007

1 A BILL TO BE ENTITLED
2 AN ACT ADOPTING A PROTEST PETITION REQUIREMENT FOR PITT
3 COUNTY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 18 of Chapter 153A of the General Statutes, as applied
6 to Pitt County, is amended by adding the following new sections to read:

7 "**§ 153A-343.1. Changes.**

8 (a) Qualified Protests.

9 (1) Zoning ordinances may from time to time be amended, supplemented,
10 changed, modified, or repealed. In case, however, of a qualified protest
11 against a zoning map amendment, that amendment shall not become
12 effective except by favorable vote of three-fourths of all the members
13 of the board of commissioners. For the purposes of this subsection,
14 vacant positions on the board and members who are excused from
15 voting shall not be considered "members of the board" for calculation
16 of the requisite supermajority.

17 (2) To qualify as a protest under this section, the petition must be signed
18 by the owners of either (i) twenty percent (20%) or more of the area
19 included in the proposed change or (ii) five percent (5%) of a
20 100-foot-wide buffer extending along the entire boundary of each
21 discrete or separate area proposed to be rezoned. A street right-of-way
22 shall not be considered in computing the 100-foot buffer area as long
23 as that street right-of-way is 100 feet wide or less. When less than an
24 entire parcel of land is subject to the proposed zoning map
25 amendment, the 100-foot buffer shall be measured from the property
26 line of that parcel. In the absence of evidence to the contrary, the
27 county may rely on the county tax listing to determine the "owners" of
28 potentially qualifying areas.

1 (3) The foregoing provisions concerning protests shall not be applicable to
2 an amendment to an adopted (i) special use district, (ii) conditional use
3 district, or (iii) conditional district if the amendment does not change
4 the types of uses that are permitted within the district or increase the
5 approved density for residential development, or increase the total
6 approved size of nonresidential development, or reduce the size of any
7 buffers or screening approved for the special use district, conditional
8 use district, or conditional district.

9 (b) Amendments in zoning ordinances shall not be applicable or enforceable
10 without consent of the owner with regard to buildings and uses for which either (i)
11 building permits have been issued pursuant to G.S. 153A-357 prior to the enactment of
12 the ordinance making the change or changes so long as the permits remain valid and
13 unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii)
14 a vested right has been established pursuant to G.S. 153A-344.1, and such vested right
15 remains valid and unexpired pursuant to G.S. 153A-344.1.

16 **"§ 153A-343.2. Protest petition; form; requirements; time for filing.**

17 No protest against any change in or amendment to a zoning ordinance or zoning map
18 shall be valid or effective for the purposes of G.S. 153A-343.1 unless it be in the form
19 of a written petition actually bearing the signatures of the requisite number of property
20 owners and stating that the signers do protest the proposed change or amendment, and
21 unless it shall have been received by the clerk to the board of commissioners at least
22 five working days, excluding Saturdays, Sundays, and legal holidays, before the date
23 established for a public hearing on the proposed change or amendment in order to allow
24 the county sufficient time to determine the sufficiency and accuracy of the petition. The
25 board of commissioners may by ordinance require that all protest petitions be on a form
26 prescribed and furnished by the county, and such form may prescribe any reasonable
27 information deemed necessary to permit the county to determine the sufficiency and
28 accuracy of the petition. A person who has signed a protest petition may withdraw his or
29 her name from the petition at any time prior to the vote on the proposed zoning
30 amendment. Only those protest petitions that meet the qualifying standards set forth in
31 G.S. 153A-343.1 at the time of the vote on the zoning amendment shall trigger the
32 supermajority voting requirement."

33 **SECTION 2.** This act applies to Pitt County only.

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