

Article 5.

Assumption of Obligations and Debt Secured By a Pledge of Faith and Credit.

Part 1. General Provisions.

§ 160B-16. Applicability of this Article.

(a) This Article applies to any county that has (i) a population over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(b) If this section is declared unconstitutional or invalid by the courts, it does not affect the validity of the Article as a whole or any part other than the part so declared to be unconstitutional or invalid. (1995, c. 461, s. 4.)

Part 2. Assumption of Obligations and Debt.

§ 160B-17. Organizational meeting; preparation of budget.

The governing board of a consolidated city-county shall have its first organizational meeting as provided in the charter or applicable local acts of the General Assembly, but not later than the first business day following the effective date of the consolidation. Unless otherwise provided in the charter or applicable local acts, the organizational meeting shall be held at 12:00 noon at the regular meeting place of the previous board of county commissioners. Prior to the effective date of consolidation, any interim governing board designated or appointed in the charter or applicable local acts may meet to discuss business and take action as appropriate, including preparation of a proposed budget for the next ensuing fiscal year. In addition, any such interim governing board may take any action which is specifically authorized by this Chapter to be taken by an interim governing board. Meetings of any interim governing board during this period are subject to all applicable notice and meeting procedures required by general law. (1995, c. 461, s. 4.)

§ 160B-18. Referendum approval of certain debt assumption required for consolidation; effective date of consolidation.

(a) Referendum Approval of Certain Debt Assumption Required for Consolidation. – For the consolidation of a city with a county to be effective in accordance with the provisions hereof, the assumption by the consolidated city-county of all debt secured by a pledge of faith and credit of said city outstanding at the effective date of consolidation must have been approved by referendum (which referendum approval may occur at different times for different portions of said debt).

(b) Effective Date of Consolidation. – Subject to the requirement of referendum approval of certain debt assumption for consolidation as provided by subsection (a) of this section, the consolidation of a city with a county shall be effective upon the later of:

- (1) Sixty days following publication of notice of the enactment of the consolidation by the General Assembly;
- (2) Sixty days following publication of the statement of result of the latest referendum relating to the consolidation or to the assumption of debt secured by a pledge of faith and credit in connection with the consolidation; or
- (3) Any effective date of the consolidation set by the General Assembly.

In addition, upon adoption of concurrent resolutions by the governing board of each unit to be consolidated, or by the interim governing board of the consolidated city-county, the effective date may be delayed further, but no later than July 1 of the next calendar year.

(c) Limitation of Local Acts. – No special, private, or local act, including any enactment of a consolidation of a city with a county, enacted after July 1, 1995, may be construed to modify,

amend, or repeal any portion of this section unless it expressly so provides by specific reference to this section. (1995, c. 461, s. 4.)

§ 160B-19. Referendum on consolidation and on assumption of certain debt secured by a pledge of faith and credit; right to issue certain authorized but unissued debt secured by a pledge of faith and credit.

(a) In connection with a city-county consolidation, if there exists at the effective date of the consolidation (i) any outstanding debt secured by a pledge of faith and credit of a consolidating city or (ii) the right to issue any authorized but unissued debt of said city that is to be secured by a pledge of faith and credit and is proposed to be assumed by the consolidated city-county, then there shall have been held a favorable referendum on the question of the assumption of that debt secured by a pledge of faith and credit and, if applicable, there shall have been held a referendum on the assumption of the right to issue that authorized but unissued debt secured by a pledge of faith and credit.

(b) The referendum on the question of the assumption of debt secured by a pledge of faith and credit or, if applicable, the assumption of the right to issue authorized but unissued debt secured by a pledge of faith and credit may be included in the proposition submitted to the voters in a referendum called by a consolidation study commission under G.S. 153A-405.

(c) If the General Assembly provided for a referendum on the question of consolidation instead of a referendum called by a consolidation study commission under G.S. 153A-405, the governing bodies of the units proposed to be consolidated, by resolution, may add to the ballot proposition the assumption of debt secured by a pledge of faith and credit question and, if applicable, the assumption of the right to issue authorized but unissued debt secured by a pledge of faith and credit question. In either event, the proposition shall be substantially as provided in G.S. 153A-405.

(d) If the city-county consolidation is authorized by the General Assembly without a referendum or if there otherwise has not been a referendum on the question of the assumption of any debt secured by a pledge of faith and credit or, if applicable, the question of the assumption of the right to issue any authorized but unissued faith and credit debt, then the governing bodies of the units proposed to be consolidated, by resolution, may provide for a referendum on said questions. In addition, any interim governing board for the consolidated city-county, by resolution, also may provide for such a referendum. The proposition submitted to the voters shall be substantially in the following form (and may include part or all of the bracketed language as appropriate and any other modifications as may be needed to reflect the issued debt secured by a pledge of faith and credit of any of the consolidating units or the portion of the authorized but unissued debt secured by a pledge of faith and credit of any of the consolidating units, the right to issue which is proposed to be assumed by the consolidated city-county):

"Shall, in connection with the consolidation of the City of _____ with the County of _____, the consolidated unit assume the debt of each secured by a pledge of faith and credit, [the right to issue authorized but unissued debt to be secured by a pledge of faith and credit [(including any such debt as may be authorized for said city or county on the date of this referendum)] and any of said authorized but unissued debt as may be hereafter issued,] and be authorized to levy taxes in an amount sufficient to pay the principal of and the interest on said debt secured by a pledge of faith and credit?

YES NO"

(e) To be approved the proposition must receive the votes of a majority of those voting in the referendum. In connection with the proposed consolidation of one or more cities with a county, if the assumption by the consolidated city-county of outstanding debt secured by a pledge of faith and credit of the consolidating city and, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit of the consolidating city was approved by the votes of a majority of those voting in the referendum, the vote on that referendum shall constitute the approval by a majority of the qualified voters who vote thereon as required by Article V, Section 4(2) of the Constitution of North Carolina.

(f) Any such referendum on the question of consolidation or the assumption of debt secured by a pledge of faith and credit or the right to issue authorized but unissued debt secured by a pledge of faith and credit may be held on the same day as any other referendum or election in the county involved, but may not otherwise be held during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the board of elections conducting the referendum and already validly called or scheduled by law.

(g) A notice of a referendum on consolidation or on the assumption of debt secured by a pledge of faith and credit or, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit shall be published at least twice in a newspaper of general circulation in the county. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, a statement as to the last date for registration for the referendum under the election laws then in effect, and substantially the text of the proposition to be voted upon. The notice shall be published by the governing bodies of the units proposed to be consolidated or, if applicable, the interim governing board of the consolidated city-county by their respective clerks or by such other person as shall be designated by each applicable governing body or board.

(h) The board of elections shall canvass any referendum on consolidation and any referendum on the assumption of debt secured by a pledge of faith and credit or, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit and shall certify the results to the governing bodies of the units proposed to be consolidated or, if applicable, the interim governing board of the consolidated city-county which shall then certify and declare the result of the referendum and shall publish a statement of the result once in a newspaper of general circulation in the county, with the following statement appended:

"Any action or proceeding challenging the regularity or validity of this referendum must be begun within 30 days after the date of publication of this statement of result."

(i) Any action or proceeding in any court to set aside a referendum on consolidation or a referendum on assumption of debt secured by a pledge of faith and credit or, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit in connection with consolidation, or to obtain any other relief, upon the grounds that the referendum is invalid or was irregularly conducted, must be begun within 30 days after the publication of the statement of the result of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section. (1995, c. 461, s. 4.)

§ 160B-20. Local Government Commission review of assumption of debt secured by a pledge of faith and credit; assumption of debt secured by a pledge of faith and credit and right to issue authorized but unissued debt secured by a pledge of faith and credit upon consolidation.

(a) Review by Local Government Commission. – At the date specified in the following sentence if any consolidating city or county has outstanding any debt secured by a pledge of faith and credit or, if applicable, any authorized but unissued debt secured by a pledge of faith and credit which is proposed to be assumed by the consolidated city-county or has outstanding or pending approval any debt secured by a pledge of faith and credit the issuance of which was or is subject to approval by the Local Government Commission, then the assumption of any such debt and, if applicable, the assumption of the right to issue such authorized but unissued debt, if any, shall be subject to review by the Local Government Commission. The finance officers of the units proposed to be consolidated shall use their best efforts to notify the secretary of the Local Government Commission of the proposed consolidation and assumption of debt secured by a pledge of faith and credit or, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit at least two months before the introduction in the General Assembly of legislation proposing to enact the consolidation into law, provided that time allows. The Local Government Commission, to such extent it deems appropriate, may conduct a review of the proposed consolidation and assumption of debt secured by a pledge of faith and credit or, if applicable, the right to issue authorized but unissued debt secured by a pledge of faith and credit and may report the results of its review to the presiding officer of each house of the General Assembly to be provided to the respective committees to which the legislation to enact the consolidation shall be referred.

(b) Assumption of Debt Secured by a Pledge of Faith and Credit by Consolidated City-County. – Subject to the requirement of referendum approval of certain debt assumption for consolidation provided in G.S. 160B-18(a), upon enactment of the consolidation by the General Assembly and effective upon the effective date of the consolidation provided in G.S. 160B-18(b), the debt secured by a pledge of faith and credit of the consolidating city at the effective date of the consolidation (including formerly authorized but unissued debt secured by a pledge of faith and credit as may have been issued at the time) is assumed by, and becomes a binding obligation of the consolidated city-county, and the faith and credit of the consolidated city-county is pledged to secure any such assumed debt secured by a pledge of faith and credit. In addition, any debt secured by a pledge of faith and credit of the county at the effective date of the consolidation shall become a binding obligation of the consolidated city-county and the faith and credit of the consolidated city-county is pledged to secure any such debt.

(c) Right to Issue Authorized but Unissued Debt Secured by a Pledge of Faith and Credit. – Subject to the passage of a referendum relating to the assumption by the consolidated city-county of the right to issue any authorized but unissued debt of the consolidating city to be secured by a pledge of faith and credit that is proposed to be assumed by the consolidated city-county, upon enactment of the consolidation by the General Assembly and effective upon the effective date of the consolidation as provided in G.S. 160B-18(b), the right to issue the authorized but unissued debt secured by a pledge of faith and credit of the consolidating city at the effective date of the consolidation is assumed by, and upon issuance such obligations become binding obligations of, the consolidated city-county, and, upon issuance, the faith and credit of the consolidated city-county is pledged to secure any such debt secured by a pledge of faith and credit. In addition, the right to issue the authorized but unissued debt secured by a pledge of faith and credit of the

county at the effective date of the consolidation shall be vested in the consolidated city-county and, upon issuance, such debt secured by a pledge of faith and credit becomes a binding obligation of the consolidated city-county and, upon issuance, the faith and credit of the consolidated city-county is pledged to secure any such debt. (1995, c. 461, s. 4; 1995 (Reg. Sess., 1996), c. 742, s. 40.)

§ 160B-21. Notice of enactment of consolidation; limitation of actions.

(a) Publication of Notice of Enactment. – Following ratification of an act of the General Assembly authorizing consolidation, there shall be published once in a newspaper of general circulation in the county a notice of said enactment and, if applicable, the fact that in connection with said enactment there is an assumption by the consolidated city-county of the debt secured by a pledge of faith and credit of the consolidating city and, if applicable, assumption of the right to issue authorized but unissued debt secured by a pledge of faith and credit of the consolidating city and that there is also binding on the consolidated city-county the debt secured by a pledge of faith and credit of the county and, if applicable, there is vested in the consolidated city-county the right to issue authorized but unissued debt secured by a pledge of faith and credit of the county with the following statement appended:

"Any action or proceeding challenging the regularity or validity of this enactment must be begun within 30 days after the date of publication of this notice."

The notice shall be published by the governing bodies of the units proposed to be consolidated or, if applicable, the interim governing board of the consolidated city-county by their respective clerks or by such other persons as shall be designated by each applicable governing body or board.

(b) Limitation on Action Contesting Validity of Enactment of Consolidation. – Any action or proceeding in any court to set aside enactment of a city-county consolidation by the General Assembly, or to obtain any other relief, upon the grounds that the enactment is invalid or was irregularly enacted, must be begun within 30 days after the publication of the notice of the enactment. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of the enactment or any irregularity in the enactment shall be asserted, nor shall the validity of the enactment be open to question in any court upon any grounds whatever, except in an action or proceeding begun within the period of limitation prescribed in this section. (1995, c. 461, s. 4; 1995 (Reg. Sess., 1996), c. 742, s. 41.)