

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 283

Short Title: Incorporate Castle Hayne. (Local)

Sponsors: Representative Hamilton (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

March 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO INCORPORATE THE TOWN OF CASTLE HAYNE, SUBJECT TO A
3 REFERENDUM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** A Charter for the Town of Castle Hayne is enacted to read:

6 "CHARTER OF THE TOWN OF CASTLE HAYNE.

7 "ARTICLE I. INCORPORATION AND CORPORATE POWERS.

8 "Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of
9 Castle Hayne are a body corporate and politic under the name "Town of Castle Hayne." The
10 Town shall have all the powers, duties, rights, privileges, and immunities conferred and
11 imposed on cities by the general laws of North Carolina.

12 "ARTICLE II. CORPORATE BOUNDARIES.

13 "Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries
14 of the Town of Castle Hayne are as follows:

15 BEGINNING at a point in the centerline of N.C. Highway No. 133 at the Northern New
16 Hanover County boundary line; thence in a westerly direction; thence northerly, along the New
17 Hanover County boundary line to a point intersecting the southern boundary line of PIN
18 #3232-19-5017.000; thence westward of said parcel along the southern boundary to PIN
19 #3212-83-7918.000; thence west along the southern boundary line; thence south along the
20 eastern boundary line; thence east to intersect Prince George Creek; thence joining the southern
21 bank of Prince George Creek; thence west along the southern bank to intersect with the eastern
22 boundary lines of PIN #3221-28-5577.000; thence south along the eastern side to PIN
23 #3221-36-7616.000 northern tip; thence north along the western side; thence east of said parcel
24 along the northern boundary line; thence south of said parcel along the eastern boundary line to
25 the centerline point of Sondey Rd; thence east along the centerline of said road to the
26 intersection of the centerline of N.C. Highway No. 133; thence north on centerline of said road
27 to the intersection of the centerline of Parmele Rd; thence east on the centerline line of said
28 road to the centerline of N.C. Highway No. 132; thence south on the centerline to southern tip
29 of PIN #3231-63-0919.000; thence east along the southern boundary line to PIN
30 #3231-63-2909.000; thence south along the western boundary line to PIN #3231-63-2886.000;
31 thence south along the western boundary line to the eastern boundary line of PIN
32 #3231-64-6255.000; thence north along the western boundary line; thence east along the
33 northern boundary line to PIN #3231-74-0048.000; thence east along the northern boundary
34 line to PIN #3231-83-1775.000; thence north along the eastern boundary line to PIN
35 #3231-84-5481; thence east along the southern boundary line to the centerline point of Blue



1 Clay Rd; thence north of said road to the point of intersection at the right-of-way of Interstate
2 40; thence crossing said interstate in a line connecting to the continuation of the centerline of
3 Blue Clay Rd on the northern boundary of the interstate right-of-way at the centerline of Blue
4 Clay Rd; thence north on said road to PIN #3241-06-4363.000; thence east along said parcel
5 along the southern boundary line to PIN #3241-06-6234.000; thence east along the southern
6 boundary line to PIN #3241-05-7293.000; thence east along the northern boundary line to PIN
7 #3241-15-4490.000; thence east along the northern boundary line to PIN #3241-26-3164.000;
8 thence east along the western boundary line north to PIN #3241-26-4528.000; thence east along
9 the southern boundary line; thence north along the eastern boundary line to PIN
10 #3241-26-9929; thence east of said parcel along the southern boundary line to PIN
11 #3241-88-1225.000; thence north of said parcel along the western boundary line; thence west;
12 thence north along the centerline at Blue Clay Rd; thence east along the northern boundary line
13 to PIN #3251-63-1678.000; thence north of said parcel along the western boundary line to the
14 centerline point at Holly Shelter Rd; thence east along of said road centerline to New Hanover
15 County boundary line; thence north along the county line to the New Hanover County
16 boundary line at the North East Cape Fear River; thence west along the northern boundary of
17 the New Hanover County line to the starting point at centerline of N.C. Highway No. 133 at the
18 Northern New Hanover County boundary line.

19 "ARTICLE III. GOVERNING BODY.

20 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing body
21 of the Town of Castle Hayne is the Mayor and the Town Council, which shall have four
22 members.

23 "Section 3.2. **Manner of Electing Town Council; Terms; Vacancies.** The qualified voters
24 of the entire Town shall elect the members of the Town Council and, except as provided in this
25 section, they shall serve four-year terms. In 2011, the two candidates receiving the highest
26 numbers of votes shall be elected to four-year terms, and the two candidates receiving the next
27 highest numbers of votes shall be elected to two-year terms. In 2013, and quadrennially
28 thereafter, two members shall be elected to four-year terms. In 2015, and quadrennially
29 thereafter, two members shall be elected to four-year terms. Vacancies on the Town Council
30 shall be filled as provided in G.S. 160A-63.

31 "Section 3.3. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of
32 the entire Town shall elect the Mayor. In 2011, and biennially thereafter, the Mayor shall be
33 elected for a term of two years. The Mayor shall attend and preside over meetings of the Town
34 Council, shall advise the Town Council from time to time as to matters involving the Town of
35 Castle Hayne, and shall have the right to vote as a member of the Town Council on all matters
36 before the Town Council, but shall have no right to break a tie vote in which the Mayor has
37 participated. Vacancies in the office of Mayor shall be filled as provided in G.S. 160A-63.

38 "Section 3.4. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The
39 Mayor Pro Tempore shall be elected from among the members of the Town Council at the
40 organizational meeting after the initial election in November 2011 and shall serve for a term of
41 two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the
42 Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the
43 members of the Town Council present may elect a temporary chair to preside in the absence
44 from amongst the members of the Council. The Mayor Pro Tempore shall have the right to vote
45 on all matters before the Town Council and shall be considered a member of the Town Council
46 for all purposes.

47 "Section 3.5. **Residency Requirement.** Members of the governing body of the Town of
48 Castle Hayne, whether elected or appointed, must be qualified voters who reside within the
49 corporate limits of the Town in order to qualify to take, hold, and continue in office.

50 "Section 3.6. **Compensation of Mayor and Town Council.** The Mayor of the Town of
51 Castle Hayne shall be paid an annual sum of one thousand five hundred dollars (\$1,500) as

1 compensation for his or her services, and each member of the Town Council shall be paid an
2 annual sum of one thousand dollars (\$1,000) as compensation for his or her services. In
3 addition, the Mayor and the members of the Town Council shall be entitled to reimbursement
4 for ordinary and necessary travel, training, or other expenses incurred in the course of
5 performing their official duties, subject to adopted Town Council policies. The Town Council
6 may, from time to time, establish rates and amounts of reimbursement which shall not be
7 exceeded without prior approval of the Town Council.

8 "ARTICLE IV. ELECTIONS.

9 "Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan
10 basis and the results determined by a plurality as provided in G.S. 163-292.

11 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter
12 163 of the General Statutes, with the first regular municipal election to be held on November 8,
13 2011.

14 "Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be
15 held only as provided by the general law of North Carolina, local acts of the General Assembly,
16 or as provided for in this Charter.

17 "ARTICLE V. ADMINISTRATION.

18 "Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town shall operate
19 under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter
20 160A of the General Statutes.

21 "Section 5.2. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed
22 to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the
23 Town, advise Town officials, and perform other duties required by law or as the Town Council
24 may direct.

25 "Section 5.3. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal
26 of the proceedings of the Town Council, to maintain official records and documents, to give
27 notice of meetings, and to perform such other duties required by law or as the Town Council
28 may direct.

29 "Section 5.4. **Other Administrative Officers and Employees.** The Town Council may
30 authorize other offices and positions and appoint persons to fill the offices and positions. The
31 Town Council may organize the Town government as deemed appropriate, subject to the
32 requirements of general law.

33 "Section 5.5. **Advisory Groups and Boards.** The Town Council may create one or more
34 advisory groups or boards to assist or advise the Town Council on matters related to the Town,
35 unless otherwise prohibited by general law. The Town Council may appoint members to serve
36 on an advisory group or board authorized by this section, subject to the requirements of general
37 law.

38 "Section 5.6. **Consolidation of Functions.** Where positions are not incompatible, the Town
39 Council may combine in one person the powers and duties of two or more officers created or
40 authorized by this Charter.

41 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

42 "Section 6.1. **Powers of the Village Council.** The Town Council may levy those taxes and
43 fees authorized by general law. An affirmative vote equal to a majority of all the members of
44 the Town Council shall be required to change the ad valorem tax rate from the rate established
45 during the prior fiscal year.

46 "Section 6.2. **Commencement of Tax Collection.** From and after July 1, 2011, the citizens
47 and property in the Town of Castle Hayne shall be subject to municipal taxes levied for the
48 year beginning July 1, 2011, and for that purpose, the Town shall obtain from New Hanover
49 County a record of property in the area herein incorporated which was listed for property taxes
50 as of January 1, 2011.

1 "Section 6.3. **Budget.** The Town may adopt a budget ordinance for fiscal year 2011-2012
2 without following the timetable in the Local Government Budget and Fiscal Control Act, but
3 shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year
4 2011-2012, ad valorem taxes may be paid at par or face amount within 90 days of adoption of
5 the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the
6 taxes had been due and payable on September 1, 2011.

7 "ARTICLE VII. ORDINANCES.

8 "Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Castle
9 Hayne is authorized to adopt such ordinances as the Town Council deems necessary for the
10 governance of the Town.

11 "ARTICLE VIII. MISCELLANEOUS.

12 "Section 8.1. **Conflicts of Interest.** No person, or a member of the person's immediate
13 family, who is employed by or is an official of the Town of Castle Hayne, shall do business
14 with the Town unless the activity is approved by the Town Council. All appointed officials of
15 the Town shall inform the Town Council of any conflicts of interest, and the failure to so
16 inform shall constitute grounds for immediate dismissal for cause. No official of the Town may
17 accept any gratuity from any business, person, or other official if the gratuity is related to his or
18 her official duties.

19 "Section 8.2. **Enlargement or Reduction of Town Council.** (a) The Town Council may
20 enlarge or reduce the size of the Town Council by two offices upon an affirmative vote of
21 three-fourths of the members of the Town Council. A vote to enlarge or reduce the size of the
22 Town Council may be had at any time, but shall not occur more often than every two years.
23 The Town Charter shall be amended to reflect an affirmative vote to enlarge or reduce the size
24 of the Town Council as provided in G.S. 160A-102.

25 (b) The qualified voters of the Town of Castle Hayne may seek to enlarge or reduce the
26 number of members of the Town Council by submitting a petition to that effect signed by
27 twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in
28 G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take
29 steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by
30 referendum whether the number of members of the Town Council should be increased or
31 reduced. If a majority of the votes cast in the referendum are in the affirmative to enlarge the
32 number of members of the Town Council, a special election shall be held at the earliest
33 possible date to elect the additional members required to enlarge the Town Council to the
34 number set forth in the referendum.

35 "Section 8.3. **Amendments to Charter.** The Town Council may propose and enact
36 amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the
37 General Statutes. No amendment to this Charter shall become effective until public notice is
38 given and a public hearing is held to receive comments on the proposed Charter amendment.
39 Notwithstanding G.S. 160A-103, upon receipt of a referendum petition bearing the signatures
40 and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town
41 Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

42 "Section 8.4. **Provision of Services and Administration of Functions.** The Town Council
43 may enter into agreements with other governmental bodies and private enterprises for the
44 provision of services and the administration of corporate functions in order to provide the
45 services and administer the functions in the most efficient and cost-effective manner.

46 "ARTICLE IX. SPECIAL PROVISIONS.

47 "Section 9.1. **Fire Protection.** The Town of Castle Hayne may contract with either or both
48 the New Hanover County Fire Services or the Castle Hayne Volunteer Fire Department, or any
49 other capable fire services provider, to provide fire protection for the Town. The contract terms
50 and the amount paid by the Town of Castle Hayne to any fire services provider shall be

1 mutually agreed upon and annually renewed by the Town Council and the fire services
2 provider.

3 "Section 9.2. **Law Enforcement.** The Town of Castle Hayne may contract with the New
4 Hanover County Sheriff's Department, or any other capable law enforcement services provider,
5 to provide law enforcement services for the Town. The contract terms and amount paid by the
6 Town of Castle Hayne to the New Hanover County Sheriff's Department or any other capable
7 law enforcement services provider shall be mutually agreed upon and annually renewed by the
8 Town Council and the New Hanover County Board of Commissioners, or other capable law
9 enforcement services provider.

10 "Section 9.3. **Zoning, Planning, and Inspections.** The Town of Castle Hayne may contract
11 with the New Hanover County Planning, Zoning, and Inspections Department, or any other
12 capable planning, zoning, and inspections service provider, to provide planning, zoning, and
13 inspections services for the Town. The contract terms and amount paid by the Town of Castle
14 Hayne to the New Hanover County Planning, Zoning, and Inspections Department, or any other
15 capable planning, zoning, and inspections service provider, shall be mutually agreed upon and
16 annually renewed by the Town Council and the New Hanover County Board of
17 Commissioners, or other capable planning, zoning, and inspections service provider."

18 **SECTION 2.** The New Hanover County Board of Elections shall conduct an
19 election on November 8, 2011, for the purpose of submission to the qualified voters for the area
20 described in Section 2.1 of the Charter of the Town of Castle Hayne the question of whether or
21 not the area shall be incorporated as the Town of Castle Hayne. Registration for the election
22 shall be conducted in accordance with G.S. 163-288.2.

23 **SECTION 3.** In the election, the question on the ballot shall be:

24 FOR AGAINST

25 Incorporation of the Town of Castle Hayne."

26 **SECTION 4.** In the election, if a majority of the votes are cast "FOR Incorporation
27 of the Town of Castle Hayne," Section 1 of this act shall become effective on the date that the
28 New Hanover County Board of Elections certifies the results of the election. Otherwise,
29 Section 1 of this act shall have no force and effect.

30 **SECTION 5.** At the same time as the election held under Section 2 of this act, the
31 New Hanover County Board of Elections shall hold an election for the initial Town Council as
32 provided in Articles III and IV of the proposed Charter of the Town of Castle Hayne. If the
33 majority of votes is not cast "FOR Incorporation of the Town of Castle Hayne," the election of
34 officers is null and void. The filing period for candidacies is the same as provided by
35 G.S. 163-294.

36 **SECTION 6.** This act is effective when it becomes law.