

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 647*

Short Title: Buncombe Annexation Referendum.

(Local)

Sponsors: Senator Apodaca.

Referred to: State & Local Government.

March 12, 2007

A BILL TO BE ENTITLED
AN ACT TO PROVIDE IN BUNCOMBE 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 Buncombe 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.