

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS55110-LB-51A* (01/26)

Short Title: Buncombe Annexation Referendum.

(Local)

Sponsors: Senator Apodaca.

Referred to:

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

1 application of G.S. 160A-36(c) and (d) to the area, the governing
 2 board may refer to boundaries set forth on a map of the area and
 3 incorporate same by reference as a part of the ordinance.

4 (2) A statement of the intent of the municipality to provide services to the
 5 area being annexed as set forth in the report required by G.S. 160A-35.

6 (3) A specific finding that on the effective date of annexation the
 7 municipality will have funds appropriated in sufficient amount to
 8 finance construction of any water and sewer lines found necessary in
 9 the report required by G.S. 160A-35 to extend the basic water and/or
 10 sewer system of the municipality into the area to be annexed, or that
 11 on the effective date of annexation the municipality will have authority
 12 to issue bonds in an amount sufficient to finance such construction. If
 13 authority to issue such bonds must be secured from the electorate of
 14 the municipality prior to the effective date of annexation, then the
 15 effective date of annexation shall be no earlier than the day following
 16 the statement of the successful result of the bond election.

17 (4) Fix the effective date for annexation. The effective date of annexation
 18 may be fixed for any date not less than 40 days nor more than 400 days
 19 from the date of passage of the ordinance."

20 **SECTION 2.** G.S. 160A-37 is amended by adding a new subsection to read:

21 "(e1) Conduct of Election. – If a referendum is required under subsection (e) of this
 22 section, the city council shall order the board or boards of elections which conduct
 23 elections for that city to call an election to determine whether or not the proposed
 24 territory shall be annexed to the city or town. Within 100 days after receiving the order
 25 from the governing body, the county board of elections shall proceed to hold an election
 26 on the question.

27 The election shall be called by a resolution or resolutions of the county board of
 28 elections which shall:

29 (1) Describe the territory proposed to be annexed to the city or town as set
 30 out in the order of the local governing body.

31 (2) Provide that the matter of annexation of the territory shall be submitted
 32 to the vote of the qualified voters of the territory proposed to be
 33 annexed.

34 (3) Provide for registration of voters in the territory proposed to be
 35 annexed for the election in accordance with G.S. 163-288.2.

36 The resolution shall be published in one or more newspapers of the county once a
 37 week for 30 days prior to the closing of the registration books. All costs of holding the
 38 election shall be paid by the city or town. Except as herein provided, the election shall
 39 be held under the same statutes, rules, and regulations as are applicable to elections in
 40 the municipality whose corporate limits are being enlarged.

41 In the election, the question on the ballot shall be:

42 [] FOR [] AGAINST
 43 Annexation.'

1 If a majority of the votes cast from the area proposed for annexation shall be 'For
2 Annexation', the annexation ordinance shall become effective as provided by this Part."

3 **SECTION 3.** G.S. 160A-49(e) reads as rewritten:

4 "(e) Passage of the Annexation Ordinance. – The municipal governing board shall
5 take into consideration facts presented at the public hearing and shall have authority to
6 amend the report required by G.S. 160A-47 to make changes in the plans for serving the
7 area proposed to be annexed so long as such changes meet the requirements of
8 G.S. 160A-47, provided that if the annexation report is amended to show additional
9 subsections of G.S.160A-48(c) or (d) under which the annexation qualifies that were not
10 listed in the original report, the city must hold an additional public hearing on the
11 annexation not less than 30 nor more than 90 days after the date the report is amended,
12 and notice of such new hearing shall be given at the first public hearing. At any regular
13 or special meeting held no sooner than the tenth day following the public hearing and
14 not later than 90 days following such public hearing, the governing board shall have
15 authority to adopt an ordinance extending the corporate limits of the municipality to
16 include all, or such part, of the area described in the notice of public hearing which
17 meets the requirements of G.S. 160A-48 and which the governing board has concluded
18 should be ~~annexed-annexed~~, provided if no later than adjournment of the public hearing,
19 a petition, signed by the owners of twenty percent (20%) of the registered voters in the
20 area proposed to be annexed is received by the city, opposing the annexation, then the
21 annexation ordinance shall become effective only if approved by the voters of the area
22 to be annexed in a referendum conducted under subsection (e1) of this section. Prior to
23 being submitted to the city, the petition must be verified by the board or boards of
24 elections administering elections for that city. The ordinance shall:

25 (1) Contain specific findings showing that the area to be annexed meets
26 the requirements of G.S. 160A-48. The external boundaries of the area
27 to be annexed shall be described by metes and bounds. In showing the
28 application of G.S. 160A-48(c) and (d) to the area, the governing
29 board may refer to boundaries set forth on a map of the area and
30 incorporate same by reference as a part of the ordinance.

31 (2) A statement of the intent of the municipality to provide services to the
32 area being annexed as set forth in the report required by G.S. 160A-47.

33 (3) A specific finding that on the effective date of annexation the
34 municipality will have funds appropriated in sufficient amount to
35 finance construction of any major trunk water mains and sewer outfalls
36 and such water and sewer lines as required in G.S. 160A-47(3)b found
37 necessary in the report required by G.S. 160A-47 to extend the basic
38 water and/or sewer system of the municipality into the area to be
39 annexed, or that on the effective date of annexation the municipality
40 will have authority to issue bonds in an amount sufficient to finance
41 such construction. If authority to issue such bonds must be secured
42 from the electorate of the municipality prior to the effective date of
43 annexation, then the effective date of annexation shall be no earlier

1 than the day following the statement of the successful result of the
2 bond election.

- 3 (4) Fix the effective date for annexation. The effective date of annexation
4 may be fixed for any date not less than 70 days nor more than 400 days
5 from the date of passage of the ordinance."

6 **SECTION 4.** G.S. 160A-49 is amended by adding a new subsection to read:

7 "(e1) Conduct of Election. – If a referendum is required under subsection (e) of this
8 section, the city council shall order the board or boards of elections which conduct
9 elections for that city to call an election to determine whether or not the proposed
10 territory shall be annexed to the city or town. Within 100 days after receiving the order
11 from the governing body, the county board of elections shall proceed to hold an election
12 on the question.

13 The election shall be called by a resolution or resolutions of the county board of
14 elections which shall:

- 15 (1) Describe the territory proposed to be annexed to the city or town as set
16 out in the order of the local governing body.
17 (2) Provide that the matter of annexation of the territory shall be submitted
18 to the vote of the qualified voters of the territory proposed to be
19 annexed.
20 (3) Provide for registration of voters in the territory proposed to be
21 annexed for the election in accordance with G.S. 163-288.2.

22 The resolution shall be published in one or more newspapers of the county once a
23 week for 30 days prior to the closing of the registration books. All costs of holding the
24 election shall be paid by the city or town. Except as herein provided, the election shall
25 be held under the same statutes, rules, and regulations as are applicable to elections in
26 the municipality whose corporate limits are being enlarged.

27 In the election, the question on the ballot shall be:

28 ' [] FOR [] AGAINST
29 Annexation.'

30 If a majority of the votes cast from the area proposed for annexation shall be 'For
31 Annexation', the annexation ordinance shall become effective as provided by this Part."

32 **SECTION 5.** G.S. 160A-36(b) reads as rewritten:

33 "(b) The total area to be annexed must meet the following standards:

- 34 (1) It must be adjacent or contiguous to the municipality's boundaries at
35 the time the annexation proceeding is begun, except if the entire
36 territory of a county water and sewer district created under
37 G.S. 162A-86(b1) is being annexed, the annexation shall also include
38 any noncontiguous pieces of the district as long as the part of the
39 district with the greatest land area is adjacent or contiguous to the
40 municipality's boundaries at the time the annexation proceeding is
41 begun.
42 (2) At least one eighth of the aggregate external boundaries of the area
43 must coincide with the municipal boundary.

1 (3) No part of the area shall be included within the boundary of another
2 incorporated municipality.

3 (4) If the area proposed for annexation, or any portion thereof, is a
4 subdivision as defined in G.S. 160A-376, all of the subdivision must
5 be included, excepting:

6 a. Any part of the subdivision within the boundary of another
7 municipality, and

8 b. If the subdivision lies in more than one county, only the part
9 within one county need be annexed."

10 **SECTION 6.** G.S. 160A-48(b) reads as rewritten:

11 "(b) The total area to be annexed must meet the following standards:

12 (1) It must be adjacent or contiguous to the municipality's boundaries at
13 the time the annexation proceeding is begun, except if the entire
14 territory of a county water and sewer district created under
15 G.S. 162A-86(b1) is being annexed, the annexation shall also include
16 any noncontiguous pieces of the district as long as the part of the
17 district with the greatest land area is adjacent or contiguous to the
18 municipality's boundaries at the time the annexation proceeding is
19 begun.

20 (2) At least one eighth of the aggregate external boundaries of the area
21 must coincide with the municipal boundary.

22 (3) No part of the area shall be included within the boundary of another
23 incorporated municipality.

24 (4) If the area proposed for annexation, or any portion thereof, is a
25 subdivision as defined in G.S. 160A-376, all of the subdivision must
26 be included, excepting:

27 a. Any part of the subdivision within the boundary of another
28 municipality, and

29 b. If the subdivision lies in more than one county, only the part
30 within one county need be annexed."

31 **SECTION 7.** This act applies in Buncombe County only.

32 **SECTION 8.** This act is effective when it becomes law and applies to any
33 annexation ordinance adopted on or after that date.