



# HOUSE BILL 531: Weaverville & Buncombe

2013-2014 General Assembly

<b>Committee:</b>	Senate Finance	<b>Date:</b>	May 30, 2014
<b>Introduced by:</b>	Reps. Ramsey, Moffitt	<b>Prepared by:</b>	R. Erika Churchill
<b>Analysis of:</b>	PCS to Fifth Edition H531-CSST-102		Staff Attorney

**SUMMARY:** *House Bill 531 would eliminate the Town of Weaverville's authority to exercise extraterritorial jurisdiction and allow the County of Buncombe to zone certain donut holes. The bill clarifies that Weaverville would retain authority for planning and development within its corporate limits. It makes a similar clarifying change to a session law enacted earlier this session that applied to Asheville.*

*The Proposed Committee Substitute adds the repeal of the Buncombe Culture and Recreation Authority, enacted in 2013, allows the Henderson County Board of Commissioners to enact an ordinance that increases the existing special fire protection district tax from a maximum of 10¢ to a maximum of 15¢ for every \$100 of taxable property owned by a taxpayer, and changes the effective date.*

## CURRENT LAW & BILL ANALYSIS:

**Sections 1 & 2. Extraterritorial Jurisdiction:** Except under certain circumstances, the General Statutes allow municipalities to regulate land-use within an area one-mile beyond their municipal boundaries, commonly referred to as extraterritorial jurisdiction (ETJ). Land use regulation may take the form of zoning, subdivision regulation, minimum housing codes, and open spaces and community appearance regulations. With the approval of the county commissioners, a city with a population between 10,000 and 25,000 may extend its extraterritorial land-use planning jurisdiction to two miles beyond its corporate limits; a city with a population of 25,000 or more may extend its extraterritorial land-use planning jurisdiction to three miles beyond its corporate limits. G.S. 160A-360(a).

Once a city exercises its ETJ authority, the county in which the area lies has the duty to appoint an individual residing in that area to serve on the city's planning board and board of adjustment.

The pcs would eliminate the Town of Weaverville's authority to exercise ETJ. The area currently within the ETJ would return to the County of Buncombe for enforcement of land use planning regulations.

The pcs clarifies also that Weaverville retains authority for planning/development within its corporate limits. Effective July 1, 2014.

It makes a similar clarifying change to a session law enacted earlier this session that applies to Asheville, which is effective on and after April 17, 2013, the effective date of that portion of S.L. 2013-30 that is being clarified.

**Section 3. County Zoning:** G.S. 153A-320 grants counties the authority to exercise land use planning regulations throughout the territorial jurisdiction of the county. The territorial jurisdiction of the county does not include incorporated municipal areas and any area in a municipality's ETJ when that municipality is exercising its ETJ authority.



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For zoning regulations, a county may determine that the public interest does not require zoning the entire territorial jurisdiction of the county, and may designate one or more portions of the county's territorial jurisdiction to be zoned. If a county does this, the area being zoned must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership. G.S. 153A-342(d).

The pcs would remove the size requirements for less than whole-county zoning for Buncombe County only.

**Section 4. Buncombe Culture and Recreation Authority:** In 2013, the General Assembly, by local act, granted authorization to Buncombe County to establish a Culture and Recreation Authority. The Authority has not been created.

The pcs would repeal the local act granting authorization to establish the Authority.

Effective June 30, 2014.

**Section 5. Henderson County Fire Districts:** Under G.S. 69-25.1, if 35% of property owners in a fire protection district sign a petition requesting an increase in the special fire protection district tax from a maximum of 10¢ to a maximum of 15¢ for every \$100 of taxable property owned by a taxpayer, the Board of Commissioners must call an election and put the measure before the qualified voters. Elections on the question of increasing the tax rate can only occur in the district every two years.

The pcs is applicable only to Henderson County and would eliminate the petition and election requirements for an increase in the fire protection tax *if* the voters have previously authorized a tax not to exceed 10¢ for every \$100 of real property owned.

If the 10¢ maximum tax is already in effect, then the Board of Commissioners of Henderson County would be permitted to pass an ordinance raising the maximum tax to 15¢ for every \$100 of taxable property owned by a taxpayer.

**EFFECTIVE DATE:** Except as noted, the act is effective when it becomes law.