

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 312*
PROPOSED COMMITTEE SUBSTITUTE S312-PCS35359-RWx-60

Short Title: Referendum on Incorporating Lake James.

(Local)

Sponsors:

Referred to:

March 14, 2013

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING A REFERENDUM ON WHETHER TO INCORPORATE THE
3 VILLAGE OF LAKE JAMES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The Burke County Board of Elections shall conduct an election on
6 November 5, 2013, for the purpose of submission to the qualified voters for the area described
7 in Section 2.1 of the proposed Charter of the Village of Lake James the question of whether or
8 not the area shall be incorporated as the Village of Lake James. Registration for the election
9 shall be conducted in accordance with G.S. 163-288.2.

10 **SECTION 2.** In the election, the question on the ballot shall be:

11 "[] FOR [] AGAINST

12 Incorporation of the Village of Lake James."

13 **SECTION 3.** In the election, if a majority of the votes are cast "FOR Incorporation
14 of the Village of Lake James," Section 5 of this act shall become effective on the date that the
15 Burke County Board of Elections certifies the results of the election. Otherwise, Section 5 of
16 this act shall have no force and effect.

17 **SECTION 4.** At the same time as the election held under Section 1 of this act, the
18 Burke County Board of Elections shall hold an election for the initial Village Council as
19 provided in Articles III and IV of the proposed Charter of the Village of Lake James. If the
20 majority of votes is not cast "FOR Incorporation of the Village of Lake James," the election of
21 officers is null and void. The filing period for candidacies is the same as provided by
22 G.S. 163-294.2.

23 **SECTION 5.** A Charter for the Village of Lake James is enacted to read:

24 "CHARTER OF THE VILLAGE OF LAKE JAMES.

25 "ARTICLE I. INCORPORATION AND CORPORATE POWERS.

26 "Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of
27 Lake James are a body corporate and politic under the name "Village of Lake James." The
28 Village of Lake James has all the powers, duties, rights, privileges, and immunities conferred
29 and imposed on cities by the general laws of North Carolina.

30 "ARTICLE II. CORPORATE BOUNDARIES.

31 "Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries
32 of the Village of Lake James are as follows:

33 Benfield's Landing Road to Powerhouse Rd to Laurel Ridge road to 1200' contour to
34 beginning: Beginning at the intersection of Duke Power Project Boundary 1200' contour
35 interval at its intersection with NC 126 at the bridge known as Canal Bridge: thence going
36 South along the center of NC 126 approximately 450 feet to the center of SR 1234 also known



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1 as Benfield's Landing Road: thence continuing along the center of Benfield's Landing Road in
2 an easterly direction approximately 2.2 miles to the intersection of Benfield's Landing Road
3 with SR 1233 also known as North Powerhouse Road: thence turning in a northerly direction
4 and continuing along the center of North Powerhouse Road, crossing the Paddy's Creek Dam,
5 then the Duke Power Lake James Spillway, then crossing the Linville Dam with Power Plant:
6 thence continuing northerly along North Powerhouse Road to where the intersection of North
7 Powerhouse Road would intersect with the eastern right-of-way of Laurel Ridge Court if
8 extended, a private right-of-way: thence continuing in a northerly direction along the eastern
9 right-of-way of Laurel Ridge Court to a pipe in the southern lot line of Lot 6 of Laurel Ridge
10 Subdivision recorded in Plat Book 16 page 248: thence S 53°24'39" E a distance of 64.43' to the
11 SE corner of Lot 6 recorded in Plat Book 16 page 248: thence N 54°18'11" E a distance of
12 208.98' to a point in the land leased by Mimosa: thence continuing in a westerly direction along
13 the northern line of Lot 6 to the point where Lot 6 intersects the Duke Power Project Boundary
14 1200' contour interval as shown on Plat Book 16 page 248: thence in a general westerly
15 direction along the Duke Power Project Boundary 1200' contour interval, to the point and place
16 of beginning, excluding a 39.86 acre parcel, number 16952, Book 1728, Page 444.

17 East Shores: Beginning at a northern Point in Lot 56 of East Shores Subdivision, phase 6, as
18 recorded in the Burke County Register of Deeds Plat Book 11 page 39, said point also being the
19 Duke Power Project Boundary 1200' contour interval at its intersection with Lot 56 and
20 property owned by Stephen McCall as described in Deed Book 665 page 496: thence
21 proceeding in an easterly direction to the southeastern corner of McCall as described in Deed
22 Book 665 page 496: thence proceeding South along the eastern line of Lot 53 of East Shores
23 Subdivision, a boundary with Ora Lee Love as described in Deed Book 127 page 558 to the
24 southwestern corner of Love: thence turning East along the line of Love and Lots 69A, 70A,
25 and 71A of East Shores to a northeastern corner of East Shores Subdivision: thence in a general
26 southwesterly direction along the easternmost boundary of East Shores subdivision to a point
27 where it joins Mimosa Fishing Club Incorporated at the Duke Power Project Boundary 1200 ft.
28 contour interval: thence to close and fully encompass all of East Shores Subdivision by
29 proceeding along the Duke Power Project Boundary 1200 ft. contour interval and the western
30 side of East Shores Subdivision to the point and place of beginning.

31 SouthPointe: Beginning at the northwestern corner of Lot 63 SouthPointe Subdivision,
32 phase 8, as shown on Plat Book 34 pages 56-57, said point also being the Duke Power Project
33 Boundary 1200 ft. contour interval: thence in a northeasterly direction along the northern
34 boundary of Lots 63, 64, and COS 10 as shown on Plat Book 34 pages 56-57 to the
35 northeastern corner of COS 10, said point being in vicinity of the southern right-of-way of NC
36 126: thence in a southeasterly direction and parallel with the right-of-way of NC 126 to a point
37 in the eastern right-of-way of SouthPointe Drive: thence in a southerly direction along the
38 eastern right-of-way of SouthPointe Drive to the southwestern corner of Lot 260 of
39 SouthPointe Subdivision, phase 4, as shown in Plat Book 25 page 84: thence N 51°00'42" E a
40 distance of 231.74' to the northern corner of Lot 260: thence S 77°00'05" E a distance of
41 171.58' to a point in the line of Lot 259: thence N 47°35'38" E a distance of 28.12' to the
42 northwestern corner of Lot 259, said point located on the Duke Power Project Boundary 1200
43 ft. contour interval: thence proceeding in a southeasterly direction along the Duke Power
44 Project Boundary 1200 ft. contour interval around and including all phases of SouthPointe
45 subdivision to the point and place of beginning. Excluded from the above description, however,
46 is any territory in McDowell County.

47 "ARTICLE III. GOVERNING BODY.

48 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing body
49 of the Village of Lake James is the Village Council, which shall have five members.

50 "Section 3.2. **Manner of Electing Village Council; Term of Office.** The qualified voters
51 of the entire Village shall elect the members of the Village Council and, except as provided in

1 this section, they shall serve four-year terms. In 2013, the three candidates receiving the highest
2 numbers of votes shall be elected to four-year terms, and the two candidates receiving the next
3 highest numbers of votes shall be elected to two-year terms. In 2015, and quadrennially
4 thereafter, two members shall be elected to four-year terms. In 2017, and quadrennially
5 thereafter, three members shall be elected to four-year terms. Vacancies on the Village Council
6 shall be filled in accordance with G.S. 160A-63.

7 "Section 3.3. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor shall be
8 elected from among the members of the Village Council at the organizational meeting after the
9 initial election in 2013, and shall serve for a term of two years. Thereafter, a Mayor shall be
10 elected biennially as provided in this section. The Mayor shall attend and preside over meetings
11 of the Village Council, shall advise the Village Council from time to time as to matters
12 involving the Village of Lake James, and shall have the right to vote as a member of the
13 Village Council on all matters before the Council, but shall have no right to break a tie vote in
14 which the Mayor has participated. In the case of a vacancy in the office of Mayor, the
15 remaining members of the Village Council shall choose from their own number a successor for
16 the unexpired term.

17 "Section 3.4. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The
18 Mayor Pro Tempore shall be elected from among the members of the Village Council at the
19 organizational meeting after the initial election in 2013, and shall serve for a term of two years.
20 Thereafter, a Mayor Pro Tempore shall be elected biennially as provided in this section. The
21 Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor
22 Pro Tempore are both absent from a meeting of the Village Council, the members of the
23 Village Council present may elect a temporary chair to preside in the absence. The Mayor Pro
24 Tempore shall have the right to vote on all matters before the Village Council and shall be
25 considered a member of the Village Council for all purposes.

26 "Section 3.5. **Compensation of Mayor and Village Council.** The Mayor and members of
27 the Village Council shall be reimbursed for ordinary and necessary expenses and may receive
28 salary and honoraria only upon a majority vote of the qualified voters of the Village who vote
29 on the question in a special referendum.

30 "ARTICLE IV. ELECTIONS.

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

33 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter
34 163 of the General Statutes, with the first regular municipal election to be held on November 5,
35 2013.

36 "Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be
37 held only as provided by general law or applicable local acts of the General Assembly.

38 "ARTICLE V. ORGANIZATION AND ADMINISTRATION.

39 "Section 5.1. **Form of Government.** The Village shall operate under the Mayor-Council
40 form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

41 "Section 5.2. **Village Attorney.** The Village Council shall appoint a Village Attorney
42 licensed to practice law in North Carolina. It shall be the duty of the Village Attorney to
43 represent the Village, advise Village officials, and perform other duties as required by law or as
44 directed by the Village Council. The Village Attorney shall serve at the pleasure of the Village
45 Council.

46 "Section 5.3. **Village Clerk.** The Village Council shall appoint a Village Clerk who shall
47 perform duties as required by law or as directed by the Village Council. The Village Clerk shall
48 serve at the pleasure of the Village Council.

49 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

50 "Section 6.1. **Powers of the Village Council.** The Village Council may levy those taxes
51 and fees authorized by general law. An affirmative vote equal to a majority of all the members

1 of the Village Council shall be required to change the ad valorem tax rate from the rate
2 established during the prior fiscal year.

3 "Section 6.2. **Commencement of Tax Collection.** From and after the date of approval of
4 the incorporation, the citizens and property in the Village of Lake James shall be subject to
5 prorated municipal taxes levied for tax year 2013-2014, in accordance with the prorating
6 procedure in G.S. 160A-58.10, and for that purpose the Village shall obtain from Burke County
7 a record of property in the area herein incorporated.

8 "Section 6.3. **Budget.** The Village may adopt a budget ordinance for fiscal year 2013-2014
9 without following the timetable in the Local Government Budget and Fiscal Control Act, but
10 shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year
11 2013-2014, ad valorem taxes may be paid at par or face amount within 90 days of adoption of
12 the budget ordinance.

13 "Section 6.4. **Ad Valorem Taxes.** Notwithstanding Section 6.1 of this Charter, the Village
14 Council shall not approve an ad valorem tax rate greater than seven and one-half cents (7 1/2¢)
15 per one hundred dollars (\$100.00) valuation unless the tax rate is approved by an affirmative
16 vote of majority of the qualified voters of the Village of Lake James. The procedures of
17 G.S. 160A-209 shall be followed for any such election.

18 "ARTICLE VII. ORDINANCES.

19 "Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Village of Lake
20 James is authorized to adopt such ordinances as the Village Council deems necessary for the
21 governance of the Village.

22 "ARTICLE VIII. SPECIAL PROVISIONS.

23 "Section 8.1. **Extraterritorial Jurisdiction.** Notwithstanding any other provision of law,
24 the Village of Lake James shall not exercise any powers of extraterritorial jurisdiction as
25 provided in Article 19 of Chapter 160A of the General Statutes.

26 "Section 8.2. **Zoning.** Notwithstanding any other provision of law, any zoning ordinance
27 adopted by the Village of Lake James shall provide regulations and restrictions on matters
28 authorized in Part 3 of Article 19 of Chapter 160A of the General Statutes that are equal to or
29 greater than the regulations and restrictions that are in the Shoreline Protection Plan of the
30 Burke County zoning ordinance that was in effect on January 1, 2009.

31 "Section 8.3. **Public Access to Lake James.** Notwithstanding any other provision of law,
32 the Village of Lake James shall not adopt any ordinances, resolutions, or rules that restrict
33 public access to Lake James.

34 "Section 8.4. **Federal Energy Regulatory Commission Relicensing.** Notwithstanding any
35 other provision of law, the Village of Lake James shall not engage in any activity that interferes
36 with the Federal Energy Regulatory Commission (FERC) relicensing process for the
37 Catawba-Wateree Hydroelectric Project (Commission Project No. 2232). Prohibited activities
38 include intervening in the relicensing process, filing documents, or otherwise advocating for
39 license conditions inconsistent with the Catawba-Wateree Comprehensive Relicensing
40 Agreement (CRA), or enlisting the support of any other entity or elected official to advocate for
41 license conditions or other changes that are inconsistent with the CRA. Upon the issuance of a
42 new license by FERC for the Catawba-Wateree Hydroelectric Project, the Village shall not
43 engage in activities or enlist the support of any other entity or elected official to seek changes
44 that are inconsistent with the provisions of the new license or CRA. Upon the expiration of the
45 new license for the Catawba-Wateree Hydroelectric Project, nothing in this section shall be
46 construed as prohibiting the Village from participating in any subsequent relicensing process
47 for the Catawba-Wateree Hydroelectric Project.

48 "Section 8.5. **Greenways; Other Public Areas.** Notwithstanding any other provision of
49 law, the Village of Lake James shall not adopt any ordinances, resolutions, or rules that restrict,
50 repeal, or interfere in any way with the terms of any agreements between Burke County and the

1 federal government or any other entity that are (i) related to greenways, bicycle or walking
2 trails, and parking areas and (ii) in existence or being negotiated on March 11, 2009.

3 "Section 8.6. **Alcoholic Beverages.** Notwithstanding any other provision of law, the Village
4 of Lake James shall not hold a malt beverage, unfortified wine, ABC store, or mixed beverage
5 election under Chapter 18B of the General Statutes or any other general or local law.

6 "Section 8.7. **Eminent Domain.** Notwithstanding any other provision of law, the Village of
7 Lake James may exercise the power of eminent domain as provided in Chapter 40A of the
8 General Statutes only for the public use or benefit. The Village shall not take private property
9 for the purpose of thereafter conveying an interest in the property to a third party for economic
10 development."

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