

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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PRINCIPAL CLERK

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SENATE BILL DRS15448-NK-123

Short Title: Hendersonville/Public Enterprises Operation. (Local)

Sponsors: Senator Moffitt (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT REGARDING THE OPERATION OF PUBLIC ENTERPRISES BY THE CITY OF  
3 HENDERSONVILLE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 160A-312 reads as rewritten:

6 "§ 160A-312. Authority to operate public enterprises.

7 (a) A city shall have authority to acquire, construct, establish, enlarge, improve, maintain,  
8 own, operate, and contract for the operation of any or all of the public enterprises as defined in  
9 this Article to furnish services to the city and its ~~citizens~~ citizens and other areas and their citizens  
10 located outside the corporate limits of the city. Subject to Part 2 of this Article, a city may acquire,  
11 construct, establish, enlarge, improve, maintain, own, and operate any public enterprise outside  
12 its corporate limits, within reasonable ~~limitations, but in no case shall a city be held liable for~~  
13 ~~damages to those outside the corporate limits for failure to furnish any public enterprise~~  
14 ~~service.~~ limitations.

15 (b) A city shall have full authority to protect and regulate any public enterprise system  
16 belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by  
17 ordinance, and shall comply with all of the following:

18 (1) The rules shall apply equally to the public enterprise system both within and  
19 outside the corporate limits of the city, and city.

20 (2) The rules may not apply differing treatment within and outside the corporate  
21 limits of the city.

22 (3) The rules shall make access to public enterprise services available to the city  
23 and its citizens and other areas and their citizens located outside the corporate  
24 limits of the city equally.

25 (4) The rules may prioritize the continuation of the provision of services based on  
26 availability of excess capacity to provide the service.

27 (5) The rules may be enforced with the remedies available under any provision of  
28 law.

29 ...

30 (d) A city shall account for a public enterprise in a separate fund and may not transfer  
31 any money from that fund to another except for a capital project fund established for the  
32 construction or replacement of assets for that public enterprise. Obligations of the public  
33 enterprise may be paid out of the separate fund. Obligations shall not include any other fund or  
34 line item in the city's budget."

35 SECTION 2. G.S. 160A-31 reads as rewritten:

36 "§ 160A-31. Annexation by petition.



\* D R S 1 5 4 4 8 - N K - 1 2 3 \*

1 (a) The governing board of any municipality may annex by ordinance any area  
 2 contiguous to its boundaries upon presentation to the governing board of a petition signed by the  
 3 owners of all the real property located within such area. The petition shall be signed by each  
 4 owner of real property in the area and shall contain the address of each such ~~owner~~-owner and a  
 5 statement that the owner's petition for annexation is not based upon any representation by the  
 6 municipality that a public enterprise service available outside the corporate limits of that  
 7 municipality would be withheld from the owner's property without the petition for annexation.

8 ...."

9 **SECTION 3.** G.S. 160A-58.1 reads as rewritten:

10 **"§ 160A-58.1. Petition for annexation; standards.**

11 ...

12 (c) The petition shall contain the names, addresses, and signatures of all owners of real  
 13 property within the proposed satellite corporate limits (except owners not required to sign by  
 14 subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall  
 15 have attached thereto a map showing the area proposed for annexation with relation to the  
 16 primary corporate limits of the annexing city. The petition shall also contain a statement from  
 17 the owner that the owner's petition for annexation is not based upon any representation by the  
 18 municipality that a public enterprise service available outside the corporate limits of that  
 19 municipality would be withheld from the owner's property without the petition for annexation.  
 20 When there is any substantial question as to whether the area may be closer to another city than  
 21 to the annexing city, the map shall also show the area proposed for annexation with relation to  
 22 the primary corporate limits of the other city. The city council may prescribe the form of the  
 23 petition.

24 ...."

25 **SECTION 4.** This act applies only to the City of Hendersonville. Section 1 of this  
 26 act shall not apply to the operation of public transportation systems or off-street parking facilities  
 27 and systems as public enterprises.

28 **SECTION 5.** This act becomes effective June 30, 2024. Section 1 of this act applies  
 29 to the 2024-2025 fiscal year and to each fiscal year thereafter. Any assets, liabilities, or equity of  
 30 a public enterprise operated or held by the City of Hendersonville in the 2023-2024 fiscal year  
 31 shall be transferred to a separate fund in accordance with G.S. 160A-312, as amended by Section  
 32 1 of this act, when this act becomes law. Sections 2 and 3 of this act apply to petitions for  
 33 annexation received by the City of Hendersonville on or after June 30, 2024.