

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1995**

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**HOUSE BILL 539**  
**Committee Substitute Favorable 5/4/95**

Short Title: Buncombe Annexation Referenda.

(Local)

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Sponsors:

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Referred to:

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March 23, 1995

**A BILL TO BE ENTITLED**

**AN ACT TO PROVIDE FOR REFERENDA ON ANNEXATION IN BUNCOMBE  
COUNTY IF REQUESTED BY RESIDENTS OF THE AREA TO BE ANNEXED.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-49(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-47 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-47, provided that if the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were not listed in the original report, the city must hold an additional public hearing on the annexation not less than 30 nor more than 90 days after the date the report is amended, and notice of such new hearing shall be given at the first public hearing. 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-48 and which the governing board has concluded should be

1 ~~annexed~~-annexed, provided if no later than adjournment of the public hearing, a petition,  
2 signed by the owners of twenty-five percent (25%) of the registered voters who are  
3 freeholders in the area proposed to be annexed, is received by the city, opposing the  
4 annexation, then the annexation ordinance shall become effective only if approved by the  
5 voters of the area to be annexed in a referendum conducted under subsection (e1) of this  
6 section.

7 The ordinance shall:

- 8 (1) Contain specific findings showing that the area to be annexed meets the  
9 requirements of G.S. 160A-48. The external boundaries of the area to be  
10 annexed shall be described by metes and bounds. In showing the  
11 application of G.S. 160A-48(c) and (d) to the area, the governing board  
12 may refer to boundaries set forth on a map of the area and incorporate  
13 same by reference as a part of the ordinance.
- 14 (2) A statement of the intent of the municipality to provide services to the  
15 area being annexed as set forth in the report required by G.S. 160A-47.
- 16 (3) A specific finding that on the effective date of annexation the  
17 municipality will have funds appropriated in sufficient amount to  
18 finance construction of any major trunk water mains and sewer outfalls  
19 and such water and sewer lines as required in G.S. 160A-47(3)(b) found  
20 necessary in the report required by G.S. 160A-47 to extend the basic  
21 water and/or sewer system of the municipality into the area to be  
22 annexed, or that on the effective date of annexation the municipality  
23 will have authority to issue bonds in an amount sufficient to finance  
24 such construction. If authority to issue such bonds must be secured from  
25 the electorate of the municipality prior to the effective date of  
26 annexation, then the effective date of annexation shall be no earlier than  
27 the day following the statement of the successful result of the bond  
28 election.
- 29 (4) Fix the effective date for annexation. The effective date of annexation  
30 may be fixed for any date not less than 40 days nor more than 400 days  
31 from the date of passage of the ordinance."

32 Sec. 2. G.S. 160A-49 is amended by adding a new subsection to read:

33 "(e1) If a referendum is required under subsection (e) of this section, the city council  
34 shall order the board of elections which conducts elections for that city to call an election  
35 to determine whether or not the proposed territory shall be annexed to the city or town.  
36 Within 90 days after receiving such order from the governing body, the county board of  
37 elections shall proceed to hold an election on the question.

38 Such election shall be called by a resolution or resolutions of said county board of  
39 elections which shall:

- 40 (1) Describe the territory proposed to be annexed to the said city or town as  
41 set out in the order of the said local governing body;

1           (2)    Provide that the matter of annexation of such territory shall be submitted  
2           to the vote of the qualified voters of the territory proposed to be  
3           annexed; and

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

6           Said resolution shall be published in one or more newspapers of the said county once  
7           a week for 30 days prior to the closing of the registration books. All costs of holding  
8           such election shall be paid by the city or town. Except as herein provided, the election  
9           shall be held under the same statutes, rules, and regulations as are applicable to elections  
10          in the municipality whose corporate limits are being enlarged.

11          At such election the question on the ballot shall be:

12                                    '[ ] FOR [ ] AGAINST  
13                                    ANNEXATION.'

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

17          Sec. 3. G.S. 160A-37(e) reads as rewritten:

18          "(e)    Passage of the Annexation Ordinance. – The municipal governing board shall  
19          take into consideration facts presented at the public hearing and shall have authority to  
20          amend the report required by G.S. 160A-35 to make changes in the plans for serving the  
21          area proposed to be annexed so long as such changes meet the requirements of G.S.  
22          160A-35. At any regular or special meeting held no sooner than the tenth day following  
23          the public hearing and not later than 90 days following such public hearing, the  
24          governing board shall have authority to adopt an ordinance extending the corporate limits  
25          of the municipality to include all, or such part, of the area described in the notice of  
26          public hearing which meets the requirements of G.S. 160A-36 and which the governing  
27          board has concluded should be ~~annexed~~-annexed, provided if no later than adjournment  
28          of the public hearing, a petition, signed by the owners of twenty-five percent (25%) of the  
29          registered voters who are freeholders in the area proposed to be annexed, is received by  
30          the city, opposing the annexation, then the annexation ordinance shall become effective  
31          only if approved by the voters of the area to be annexed in a referendum conducted under  
32          subsection (e1) of this section. The ordinance shall:

33               (1)    Contain specific findings showing that the area to be annexed meets the  
34               requirements of G.S. 160A-36. The external boundaries of the area to be  
35               annexed shall be described by metes and bounds. In showing the  
36               application of G.S. 160A-36(c) and (d) to the area, the governing board  
37               may refer to boundaries set forth on a map of the area and incorporate  
38               same by reference as a part of the ordinance.

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

41               (3)    A specific finding that on the effective date of annexation the  
42               municipality will have funds appropriated in sufficient amount to  
43               finance construction of any water and sewer lines found necessary in the

1 report required by G.S. 160A-35 to extend the basic water and/or sewer  
2 system of the municipality into the area to be annexed, or that on the  
3 effective date of annexation the municipality will have authority to issue  
4 bonds in an amount sufficient to finance such construction. If authority  
5 to issue such bonds must be secured from the electorate of the  
6 municipality prior to the effective date of annexation, then the effective  
7 date of annexation shall be no earlier than the day following the  
8 statement of the successful result of the bond election.

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

12 Sec. 4. G.S. 160A-37 is amended by adding a new subsection to read:

13 "(e1) If a referendum is required under subsection (e) of this section, the city council  
14 shall order the board of elections which conducts elections for that city to call an election  
15 to determine whether or not the proposed territory shall be annexed to the city or town.  
16 Within 90 days after receiving such order from the governing body, the county board of  
17 elections shall proceed to hold an election on the question.

18 Such election shall be called by a resolution or resolutions of said county board of  
19 elections which shall:

- 20 (1) Describe the territory proposed to be annexed to the said city or town as  
21 set out in the order of the said local governing body;  
22 (2) Provide that the matter of annexation of such territory shall be submitted  
23 to the vote of the qualified voters of the territory proposed to be  
24 annexed; and  
25 (3) Provide for registration of voters in the territory proposed to be annexed  
26 for said election in accordance with G.S. 163-288.2.

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

32 At such election the question on the ballot shall be:

33 **'[ ] FOR [ ] AGAINST**  
34 **ANNEXATION.'**

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

38 Sec. 5. This act applies only in Buncombe County.

39 Sec. 6. This act is effective upon ratification.