

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-139
HOUSE BILL 1064**

AN ACT REGARDING THE OPERATION OF PUBLIC ENTERPRISES BY THE
CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) The rules shall apply equally to the public enterprise system both within and outside the corporate limits of the city.
- (2) The rules may not apply differing treatment within and outside the corporate limits of the city.
- (3) The rules shall make access to public enterprise services available to the city and its citizens and other areas and their citizens located outside the corporate limits of the city equally.
- (4) The rules may prioritize the continuation of the provision of services based on availability of excess capacity to provide the service.
- (5) The rules ~~and~~ may be enforced with the remedies available under any provision of law.

(c) A city may operate that part of a gas system involving the purchase and/or lease of natural gas fields, natural gas reserves and natural gas supplies and the surveying, drilling or any other activities related to the exploration for natural gas, in a partnership or joint venture arrangement with natural gas utilities and private enterprise.

(d) A city shall account for a public enterprise in a separate fund and may not transfer any money from that fund to another except for a capital project fund established for the construction or replacement of assets for that public enterprise.

Obligations of the public enterprise may be paid out of the separate fund. Obligations shall not include any other fund or line item in the city's budget."

SECTION 2. G.S. 160A-31(a) reads as rewritten:

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

SECTION 3. G.S. 160A-58.1(c) reads as rewritten:

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

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

SECTION 5. This act becomes effective June 30, 2005. Section 1 of this act applies to the fiscal year 2005-2006 and thereafter. Any assets, liabilities, or equity of a public enterprise operated or held by the city during the fiscal year 2004-2005 shall be transferred to a separate fund in accordance with G.S. 160A-312, as amended by Section 1 of this act, when this act becomes law. Sections 2 and 3 apply to petitions for annexation received by the municipality on or after June 30, 2005.

In the General Assembly read three times and ratified this the 29th day of June, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives