

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1064
Committee Substitute Favorable 4/27/05
Committee Substitute #2 Reported Without Prejudice 5/31/05
Senate State and Local Government Committee Substitute Adopted 6/29/05

Short Title: Sullivan III - Asheville Public Enterprises.

(Local)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

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.

1 (5) The rules and may be enforced with the remedies available under any
2 provision of law.

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

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

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

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

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

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

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

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