



SENATE BILL 68: Various Local Changes.

2023-2024 General Assembly

Committee:		Date:	September 20, 2023
Introduced by:	Sen. Moffitt	Prepared by:	Jessica Sammons
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *Senate Bill 68 would do all of the following:*

- *Authorize the City of Hendersonville to expand the use of proceeds from charging for on-street parking to fund any capital projects and restrict the City of Hendersonville’s use of proceeds from charging for off-street parking.*
- *Change the method of election for the City of Hendersonville, the Village of Flat Rock, and the Town of Fletcher from the nonpartisan primary and election method to the nonpartisan plurality method, with candidates filing for office at the same time as candidates for county partisan primaries.*
- *Exempt the City of Archdale from the 10% area cap on voluntary satellite annexations.*
- *Annex certain property into the corporate limits of the City of Asheboro.*
- *Establish the boundaries for the Whiteville City School Administrative Unit.*
- *Limit the enforcement of restrictive covenants that regulate or prohibit the display of Armed Forces flags or first responder flags for planned communities and condominiums located in Union County.*
- *Provide that regular municipal elections in the Towns of Hookerton and Walstonburg would be held in the even-numbered years, beginning in 2024.*

[As introduced, this bill was identical to H57, as introduced by Rep. Balkcom, which is currently in an unknown committee.]

City of Hendersonville Parking Proceeds – Section 1:

CURRENT LAW & BILL ANALYSIS: Cities in North Carolina may use proceeds from parking meters on public streets only to defray the cost of enforcing and administering traffic and parking ordinances and regulations. Section 1(a) would authorize the City of Hendersonville to expand the use of proceeds from charging for on-street parking to fund any capital projects, in addition to defraying the cost of enforcing and administering traffic and parking ordinances and regulations.

Cities in North Carolina may use proceeds collected from off-street parking facilities to amortize bonds issued to finance such facilities or for any other public purpose. Section 1(b) would restrict the City of Hendersonville’s use of proceeds from charging for off-street parking, requiring that those proceeds be used to fund capital projects, rather than to be used for any public purpose, in addition to amortizing bonds issued to finance off-street parking facilities.

EFFECTIVE DATE: Effective when it becomes law. The provisions applicable to the proceeds from off-street parking would apply to proceeds collected on or after that date.

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Senate Bill 68

Page 2

City of Hendersonville, Village of Flat Rock, and Town of Fletcher Municipal Elections – Section 2:

CURRENT LAW: Town officers and the method of election for the City of Hendersonville, Village of Flat Rock, and the Town of Fletcher are summarized in the chart below:

Unit of Government	Officers	Term of Offices	Election of Current Members	Method of Election
City of Hendersonville (Henderson County)	Mayor City Council (4 members)	<u>Mayor:</u> four years <u>Council:</u> four years, staggered	<u>Mayor:</u> Elected in 2021 <u>Council:</u> Two elected in 2021 & two elected in 2019	Nonpartisan primary and election
Village of Flat Rock (Henderson County)	Mayor Village Council (6 members)	<u>Mayor:</u> four years <u>Council:</u> four years, staggered	<u>Mayor:</u> Elected in 2019 <u>Council:</u> Three elected in 2021 & three elected in 2019	Nonpartisan primary and election
Town of Fletcher (Henderson County)	Mayor Town Council (4 members)	<u>Mayor:</u> four years <u>Council:</u> four years, staggered	<u>Mayor:</u> Elected in 2021 <u>Council:</u> Two elected in 2021 & two elected in 2019	Nonpartisan primary and election

Beginning in 2024, municipal elections in the municipalities listed above are to be conducted at the time of the general election in the even-numbered years, with the primary held on the fourth Tuesday before the general election. To implement this change to even-year elections, no municipal election will be held in 2023, and the current terms of officers are extended by one year. Regular municipal elections will resume in 2024. (See S.L. 2022-44.)

BILL ANALYSIS: Section 2 would change the method of election from the nonpartisan primary and election method to the nonpartisan plurality method for the City of Hendersonville, Village of Flat Rock, and the Town of Fletcher. Candidates seeking election would file a notice of candidacy at the same time as candidates seeking election for county offices elected on a partisan basis, which is from the first Monday in December through the third Friday in December.

EFFECTIVE DATE: Effective when it becomes law and applies to elections held on or after that date.

City of Archdale and City of Asheboro Annexation – Sections 3 and 4:

CURRENT LAW: Annexation is a method by which municipalities alter their boundaries. The municipality must follow the statutorily prescribed steps in order to add an area into its boundaries. The municipality must provide, or contract to provide, basic services to the area. These services include police protection, fire protection, solid waste collection and the extension of water and sewer lines to the area.

North Carolina law sets forth four basic ways in which a municipality may annex an area:

- Voluntary Annexation. – The owners of all real property in an area contiguous to the municipality desiring to be annexed sign a petition requesting annexation.
- Voluntary Satellite Annexation. – The owners of all real property in the area desiring to be annexed sign a petition requesting annexation, if it otherwise meets the statutory

Senate Bill 68

Page 3

requirements, including a requirement that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

- Municipal-Initiated Annexation subject to a referendum. – The municipality initiates an annexation proceeding, pursuant to statutory requirements.
- Legislative Act. – The General Assembly has the authority to extend the boundaries of any municipality.

BILL ANALYSIS & EFFECTIVE DATE: Effective when becoming law, Section 3 would add the City of Archdale to the list of municipalities exempted from the 10% area cap on voluntary satellite annexation.

For tax years beginning on or after July 1, 2024, Section 4 would add 28 parcels of real property to the corporate limits of the City of Asheboro. This property contains the North Carolina Zoological Park.

Boundaries of the Whiteville City School Administrative Unit – Section 5:

BILL ANALYSIS: Section 5 would establish the boundaries for the Whiteville City School Administrative Unit.

EFFECTIVE DATE: Effective when it becomes law.

Union County Restrictions on HOA Flag Regulation – Section 6:

CURRENT LAW: The North Carolina Planned Community Act and Condominium Act provides that no restriction on the use of land in a planned community or a condominium shall be construed to regulate or prohibit the display of the flag of the United States of America or of the State of North Carolina of a size no larger than four feet by six feet, on property owned exclusively by the owner, unless:

- For a restriction registered before October 1, 2005, the restriction specifically uses the following terms:
 - Flag of the United States of America
 - American flag
 - United States flag
 - North Carolina flag
- For a restriction registered on or after October 1, 2005, the restriction is written on the first page of the registered instrument or conveyance, in boldface type print, in capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance and specifically states: **"THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA."**

BILL ANALYSIS: Section 6 would provide that no restriction on the use of land in planned communities and condominiums located in Union County would be construed to regulate or prohibit the display of any flag of a branch of the United States Armed Forces or of a first responder of a size no larger than four feet by six feet, on property owned exclusively by the owner, unless:

- For restrictions registered prior to October 1, 2023, the restriction would use the following terms to specify each branch of the Armed Forces and each of the first responders whose flag display is regulated or prohibited:

Senate Bill 68

Page 4

- The United States Air Force
 - The United States Army
 - The United States Coast Guard
 - The United States Marines
 - The United States Navy
 - The United States Space Force
 - Police officers
 - Corrections officers
 - Firefighters
 - 911 dispatchers
 - EMS personnel
- For restrictions registered on or after October 1, 2023, the restriction must be written on the first page of the instrument or conveyance, in boldface type print, in capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance and must specifically state: "**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF [INSERT NAME OF EACH BRANCH OF THE ARMED FORCES OR EACH OF THE FIRST RESPONDERS WHOSE FLAG IS SUBJECT TO THE RESTRICTION].**"

This section would also define "first responder flag" by providing a description of the flag of police officers, corrections officers, firefighters, 911 dispatchers, and EMS personnel.

EFFECTIVE DATE: Effective October 1, 2023, and applies to the display of flags on or after that date.

Even-Year Elections for the Town of Hookerton and Town of Walstonburg – Sections 7 and 8:

CURRENT LAW: The Town of Hookerton is represented by a mayor serving a two-year term and four commissioners serving staggered four-year terms, and the Town of Walstonburg is represented by a mayor and five commissioners serving two-year terms.

G.S. 163-279 establishes a statewide default rule for the timing of municipal elections as odd-numbered years. The Towns of Hookerton and Walstonburg conduct municipal elections for the commissioners and mayors in odd-numbered years, held on the Tuesday after the first Monday in November. Elections are conducted using the nonpartisan plurality method.

BILL ANALYSIS: Sections 7 and 8 would provide that municipal elections in the Town of Hookerton and the Town of Walstonburg would be conducted in the even-numbered years, beginning with the 2024 elections. To implement this change, there would be no municipal election in these towns in 2023, and the current terms of officers would be extended by one year. Regular municipal elections would resume in 2024 and would be held at the same time as the general election.

EFFECTIVE DATE: Effective when it becomes law and applies to elections held on or after that date.