



SENATE BILL 69: Henderson County Local Omnibus.

2025-2026 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	May 6, 2025
Introduced by:	Sen. Moffitt	Prepared by:	Nicholas Giddings
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: Senate Bill 69 would do the following:

- *Amend the City of Hendersonville's authority to operate public enterprises by requiring the city to account for a public enterprise in a separate fund from which money cannot be transferred except in limited circumstances; however, this would not apply to public transportation systems and off-street parking facilities.*
- *Require that an owner petitioning for annexation into the City of Hendersonville must include a statement that the petition is not based upon a representation by the city that public enterprise services available outside the city limits will be withheld without the petition for annexation.*
- *Authorize the Town of Mills River to adopt the uniform development ordinance (UDO) presented to the Town Council in October 2024.*
- *Authorize Henderson County to amend definitions in its UDO to eliminate or modify uses by right in all zoning districts.*
- *Eliminate the extraterritorial jurisdiction authority of municipalities in Henderson County.*
- *Require Henderson County to approve any rezoning of areas voluntarily annexed by municipalities within the county.*

BILL ANALYSIS:

PART I – HENDERSONVILLE PUBLIC ENTERPRISE CHANGES¹

Section 1.1 of the bill would amend the City of Hendersonville's authority to operate public enterprises under G.S. 160A-312 as follows:

- The bill would remove the provisions shielding the city from liability for damages to those outside the city limits for failure to furnish public enterprise services.
- The bill would require that the city adopt rules that:
 - Apply equally to the public enterprise system both within and without the city's corporate limits.
 - May not apply differing treatment within and outside the city limits.

¹ The General Assembly granted similar authority to the City of Asheville in S.L. 2005-139. The Court of Appeals found that this act was not a prohibited local act under the North Carolina Constitution. *City of Asheville v. State*, 192 N.C. App. 1 (2008).

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- Make access to public enterprise services available within and outside the city limits equally.
- May prioritize the continuation of the provision of services based on the availability of excess capacity to provide the service.
- May be enforced with the remedies available under the law.
- The bill would require the city to account for a public enterprise in a separate fund and would prohibit the transfer of money from that fund to another fund except for construction or replacement of assets for that public enterprise. Obligations of the public enterprises could be paid from the separate fund, but those obligations must not include any other funds or line items in the city's budget.

Sections 1.2 and 1.3 of the bill would require that in voluntary annexations, including satellite annexations, the owner petitioning for voluntary annexation must provide a statement that the petition is not based on a representation by the municipality that a public enterprise service available outside the corporate limits of the municipality would be withheld from the owner's property without the petition for annexation.

Section 1.4 of the bill would limit the application of the act to the City of Hendersonville. It would also provide that Section 1.1 of the bill does not apply to public transportation systems or off-street parking facilities.

This Part would become effective June 30, 2025. Section 1.1 would apply to FY 2025-2026 and thereafter. Any assets, liabilities, or equity of a public enterprise operated or held by the city during FY 2025-2026 would have to be transferred to the separate fund provided for in Section 1.1. Sections 1.2 and 1.3 would apply to petitions for annexation received on or after June 30, 2025.

PART II – MILLS RIVER UNIFIED DEVELOPMENT ORDINANCE

Section 2.1 would authorize the Town of Mills River to adopt the UDO as it was presented to the Town Council in October 2024. This Part would be effective when it becomes law. Any adoption of the UDO would be required to occur on or before October 1, 2025.

PART III – HENDERSON COUNTY UDO DEFINITIONS

Section 3.1 would authorize Henderson County, notwithstanding certain statutory prohibitions that may conflict, to amend definitions within its UDO to eliminate or modify uses by right in all zoning districts. This Part would be effective when it becomes law. Any amendment of the UDO must occur on or before October 1, 2025.

PART IV – ELIMINATE ETJ IN HENDERSON COUNTY

Except under certain circumstances, a municipality may regulate land use within an area beyond its corporate limits, commonly referred to as extraterritorial jurisdiction (ETJ). Land use regulations include zoning, subdivision regulation, building code enforcement, minimum housing code enforcement, historic preservation, erosion and sedimentation control regulation, and historic district regulation.

Section 4.1 would eliminate the authority of municipalities in Henderson County to exercise ETJ, returning the area currently within the ETJ of a municipality to the jurisdiction of Henderson County for

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enforcement of land use regulations and allowing any person with vested rights in the ETJ area from a municipality in Henderson County to exercise those vested rights as if no change in jurisdiction occurred.

This Part would be effective when it becomes law; however, the relinquishment of jurisdiction over an area that a municipality in Henderson County is exercising its ETJ authority over shall become effective July 1, 2025.

PART V – HENDERSON COUNTY REZONING APPROVAL

Section 5.1 would require that if a municipality in Henderson County proceeds with the voluntary annexation of a property, no rezoning of any area that includes the annexed property, or any part thereof, may occur without the approval of both the governing body of the municipality and the Henderson County Board of Commissioners. This requirement would apply only to Henderson County and any municipality located wholly or partly in Henderson County seeking to annex an area located wholly within Henderson County.

This Part would become effective July 1, 2025, and apply to annexations on or after that date.

Brad Krehely, Erika Churchill, and Ike McRee, Staff Attorneys with the Legislative Analysis Division, substantially contributed to this summary.