

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 687

Short Title: Henderson E & R Board.

(Local)

Sponsors: Representatives Justus; and Ives.

Referred to: Local and Regional Government II.

March 31, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF
EQUALIZATION AND REVIEW FOR HENDERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-322 reads as rewritten:

"§ 105-322. **Henderson County board of equalization and review.**

(a) ~~Personnel Board Composed of Commissioners if Special Board Not Appointed. — Except as otherwise provided herein, If the board of county commissioners does not appoint a special board of equalization and review as provided in this section, the board of equalization and review of each the county shall be composed of the members of the board of county commissioners.~~

(a1) Appointment of Special Board. — Upon the adoption of a resolution so providing, the board of commissioners is authorized to appoint a special board of equalization and review to carry out the duties imposed under this section. The resolution shall provide for the membership, qualifications, terms of office and the filling of vacancies on the board. The special board shall be composed of five members and three alternate members. The board of commissioners shall also designate the chairman a chair of the special board board from the membership of the board. The special board shall elect a vice-chair from its membership. To be eligible for appointment to the special board, a person must have resided in Henderson County for at least three years immediately

1 preceding the appointment and the board of county commissioners must find that the
2 person has satisfactory knowledge of or experience in real estate, fee appraisals, banking,
3 farming, or other business management.

4 Members of the special board shall serve a term of two years. No member may serve
5 more than three consecutive terms. Vacancies shall be filled by the board of county
6 commissioners; a successor appointed to fill a vacancy shall serve for the remainder of
7 the term. Members of the special board shall serve at the pleasure of the board of county
8 commissioners.

9 ~~The resolution may also authorize a taxpayer to appeal a decision of the special board~~
10 ~~with respect to the listing or appraisal of his property or the property of others to the~~
11 ~~board of county commissioners.—The resolution creating the special board shall be~~
12 ~~adopted not later than the first Monday in March of the year for which it is to be effective~~
13 ~~and shall continue in effect until revised or rescinded. It shall be entered in the minutes~~
14 ~~of the meeting of the board of commissioners and a copy thereof shall be forwarded to~~
15 ~~the Department of Revenue within 15 days after its adoption.~~

16 ~~Nothing in this subsection (a) shall be construed as repealing any law creating a~~
17 ~~special board of equalization and review or creating any board charged with the duties of~~
18 ~~a board of equalization and review in any county.~~

19 (a2) Quorum; Alternates. – A majority of the members of the special board shall
20 constitute a quorum for the purpose of transacting business. A decision of the special
21 board shall be made by a majority of the members present. An alternate member of the
22 special board shall have all the powers and duties of a regular board member when sitting
23 as a member of the board or of any subcommittee or panel created by the board. The
24 board of county commissioners shall adopt a resolution setting forth any other provisions
25 it deems necessary to govern the proceedings of the special board and any subcommittee
26 or panel created by the special board.

27 (b) Compensation. – The board of county commissioners shall fix the
28 compensation and allowances to be paid members of the board of equalization and
29 review for their services and expenses.

30 (c) Oath. – Each member of the board of equalization and review shall take the
31 oath required by Article VI, § 7 of the North Carolina Constitution with the following
32 phrase added to it: ‘that I will not allow my actions as a member of the board of
33 equalization and review to be influenced by personal or political friendships or
34 obligations.’. The oath must be filed with the clerk of the board of county
35 commissioners.

36 (d) Clerk and Minutes. – The assessor or a person designated by the assessor shall
37 serve as clerk to the board of equalization and review, shall be present at all meetings,
38 shall maintain accurate minutes of the actions of the board, shall draft all written
39 decisions of the special board, and shall give to the board such information as ~~he~~ the clerk
40 may have or can obtain with respect to the listing and valuation of taxable property in the
41 county. The chair of the special board shall review all written decisions drafted by the
42 clerk. Only the chair of the special board can execute the decisions of the special board.

1 (e) Time of Meeting. — ~~Each~~ Except as otherwise provided in this section, each
2 year the board of equalization and review shall hold its first meeting not earlier than the
3 first Monday in April and not later than the first Monday in May. ~~In years in which a~~
4 ~~county does not conduct a real property revaluation, the~~ The board shall complete its duties
5 on or before the ~~third Monday following its first meeting~~ advertised adjournment date
6 unless, in its opinion, a longer period of time is necessary or expedient to a proper
7 execution of its responsibilities. In no event shall the board sit later than ~~July 1~~ December
8 1 except to hear and determine requests made under the provisions of subdivision (g)(2),
9 below, when such requests are made within the time prescribed by law. ~~In the year in~~
10 ~~which a county conducts a real property revaluation, the board shall complete its duties on or~~
11 ~~before December 1, except that it may sit after that date to hear and determine requests made~~
12 ~~under the provisions of subdivision (g)(2), below, when such requests are made within the time~~
13 ~~prescribed by law. From the time of its first meeting until its adjournment, the~~ The board shall
14 meet at such times as it deems reasonably necessary to perform its statutory duties and to
15 receive requests and hear the appeals of taxpayers under the provisions of ~~subdivision~~
16 ~~(g)(2), below.~~ subdivisions (g)(1) and (g)(2) of this section.

17 (f) Notice of Meetings and Adjournment. — A notice of the date, hours, place, and
18 purpose of the first meeting of the board of equalization and review shall be published at
19 least three times in some newspaper having general circulation in the county, the first
20 publication to be at least 10 days prior to the first meeting. The notice shall also state the
21 dates and hours on which the board will meet following its first meeting and the date on
22 which it expects to adjourn; it shall also carry a statement that in the event of earlier or
23 later adjournment, notice to that effect will be published in the same newspaper. Should
24 a notice be required on account of earlier adjournment, it shall be published at least once
25 in the newspaper in which the first notice was published, such publication to be at least
26 five days prior to the date fixed for adjournment. Should a notice be required on account
27 of later adjournment, it shall be published at least once in the newspaper in which the first
28 notice was published, such publication to be prior to the date first announced for
29 adjournment.

30 (g) Powers and Duties. — The board of equalization and review shall have the
31 following powers and duties:

32 (1) ~~Powers and Duties.~~ — ~~It shall be the duty of the board of equalization and~~
33 ~~review to~~ Duty to Review Tax Lists. — The board shall examine and
34 review the tax lists of the county for the current year to the end that all
35 taxable property shall be listed on the abstracts and tax records of the
36 county and appraised according to the standard required by G.S. 105-
37 283, and the board shall correct the abstracts and tax records to conform
38 to the provisions of this Subchapter. In carrying out its responsibilities
39 under this subdivision (g)(1), the board, on its own motion or on
40 sufficient cause shown by any person, shall:

41 a. List, appraise, and assess any taxable real or personal property
42 that has been omitted from the tax lists.

- 1 b. Correct all errors in the names of persons and in the description
2 of properties subject to taxation.
- 3 c. Increase or reduce the appraised value of any property that, in the
4 board's opinion, shall have been listed and appraised at a figure
5 that is below or above the appraisal required by G.S. 105-283;
6 however, the board shall not change the appraised value of any
7 real property from that at which it was appraised for the
8 preceding year except in accordance with the terms of G.S. 105-
9 286 and 105-287.
- 10 d. Cause to be done whatever else shall be necessary to make the
11 lists and tax records comply with the provisions of this
12 Subchapter.
- 13 e. Embody actions taken under the provisions of subdivisions
14 (g)(1)a through (g)(1)d, above, in appropriate orders and have the
15 orders entered in the minutes of the board.
- 16 f. Give written notice to the taxpayer at his last-known address in
17 the event the board shall, by appropriate order, increase the
18 appraisal of any property or list for taxation any property omitted
19 from the tax lists under the provisions of this subdivision (g)(1).
- 20 (2) Duty to Hear Taxpayer Appeals. – On request, the board of equalization
21 and review shall hear any taxpayer who owns or controls property
22 taxable in the county with respect to the listing or appraisal of his
23 property or the property of others.
- 24 a. A request for a hearing under this subdivision (g)(2) shall be
25 made in writing to or by personal appearance before the board
26 prior to its adjournment. However, if the taxpayer requests
27 review of a decision made by the board under the provisions of
28 subdivision (g)(1), above, notice of which was mailed fewer than
29 15 days prior to the board's adjournment, the request for a
30 hearing thereon may be made within 15 days after the notice of
31 the board's decision was mailed.
- 32 b. Taxpayers may file separate or joint requests for hearings under
33 the provisions of this subdivision (g)(2) at their election.
- 34 c. At a hearing under provisions of this subdivision (g)(2), the
35 board, in addition to the powers it may exercise under the
36 provisions of subdivision (g)(3), below, shall hear any evidence
37 offered by the appellant, the assessor, and other county officials
38 that is pertinent to the decision of the appeal. Upon the request
39 of an appellant, the board shall subpoena witnesses or documents
40 if there is a reasonable basis for believing that the witnesses have
41 or the documents contain information pertinent to the decision of
42 the appeal. The board shall render a decision on each appeal
43 within five days of the hearing date.

1 d. On the basis of its decision after any hearing conducted under
2 this subdivision (g)(2), the board shall adopt and have entered in
3 its minutes an order reducing, increasing, or confirming the
4 appraisal appealed or listing or removing from the tax lists the
5 property whose omission or listing has been appealed. The board
6 shall notify the appellant by mail as to the action taken on his
7 appeal not later than 30 days after the board's adjournment.

8 (3) Powers in Carrying Out Duties. – In the performance of its duties under
9 subdivisions (g)(1) and (g)(2), above, the board of equalization and
10 review may exercise the following powers:

11 a. It may appoint committees composed of its own members or
12 other persons to assist it in making investigations necessary to its
13 work. It may also employ expert appraisers in its discretion. The
14 expense of the employment of committees or appraisers shall be
15 borne by the county. The board may, in its discretion, require the
16 taxpayer to reimburse the county for the cost of any appraisal by
17 experts demanded by him if the appraisal does not result in
18 material reduction of the valuation of the property appraised and
19 if the appraisal is not subsequently reduced materially by the
20 board or by the Department of Revenue.

21 b. The board, in its discretion, may examine any witnesses and
22 documents. It may place any witnesses under oath administered
23 by any member of the board. It may subpoena witnesses or
24 documents on its own motion, and it must do so when a request
25 is made under the provisions of subdivision (g)(2)c, above.

26 A subpoena issued by the board shall be signed by the
27 chairman of the board, directed to the witness or to the person
28 having custody of the document, and served by an officer
29 authorized to serve subpoenas. Any person who willfully fails to
30 appear or to produce documents in response to a subpoena or to
31 testify when appearing in response to a subpoena shall be guilty
32 of a Class 1 misdemeanor.

33 (4) Power to Submit Reports. – Upon the completion of its other duties, the
34 board may submit to the Department of Revenue a report outlining the
35 quality of the reappraisal, any problems it encountered in the reappraisal
36 process, the number of appeals submitted to the board and to the
37 Property Tax Commission, the success rate of the appeals submitted,
38 and the name of the firm that conducted the reappraisal. A copy of the
39 report should be sent by the board to the firm that conducted the
40 reappraisal.

41 (5) Duty to Change Abstracts and Records After Adjournment. – After
42 adjournment upon completion of its duties under subdivisions (g)(1) and
43 (g)(2) of this section, the board of equalization and review shall

1 exercise the authority granted to the board of county commissioners
2 under G.S. 105-325. This duty includes hearing appeals of the
3 appraisal, situs, and taxability of classified motor vehicles pursuant to
4 G.S. 105-330.2(b).

5 (h) Motor Vehicle and Review Subcommittee. – The chair of the board of
6 equalization and review shall appoint a subcommittee at the board's first meeting of the
7 calendar year. The subcommittee shall hear and decide all appeals relating to the
8 appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b) and
9 may meet as needed to exercise this authority. The subcommittee shall consist of three
10 board members and three alternate members, which may include the alternate board
11 members. Three members shall constitute a quorum for the purpose of transacting
12 business. A decision of the subcommittee shall be made by a majority of the members.

13 (i) Reappraisal Year Panels. – In any reappraisal year, the chair of the board of
14 equalization and review may divide the board into separate panels consisting of three
15 members, which may include the alternate board members. The chair shall designate one
16 member of each panel to serve as its chair and may change the members of the panels
17 during the year. Three members of each panel shall constitute a quorum for the purpose
18 of transacting business. A decision of the panel shall be made by a majority of the
19 members. A decision of a panel constitutes a decision of the board of equalization and
20 review."

21 Section 2. Two of the initial five appointees to the special board of
22 equalization and review shall be appointed to serve a one-year term.

23 Section 3. Chapter 155 of the 1975 Session Laws is repealed.

24 Section 4. This act applies only to Henderson County.

25 Section 5. This act becomes effective January 1, 1998.