

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 786

Senate State Government, Local Government, and Personnel Committee Substitute
Adopted 8/4/97

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Short Title: Concord Charter.

(Local)

Sponsors:

Referred to:

April 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CHARTER OF THE CITY OF CONCORD TO ALLOW
3 THE CITY MANAGER TO APPOINT THE FINANCE DIRECTOR AND THE
4 CITY CLERK; TO PROVIDE FOR INITIATIVE AND REFERENDUM
5 AUTHORITY FOR THE CONCORD CITY COUNCIL AND THE CABARRUS
6 COUNTY BOARD OF COMMISSIONERS; AND AN ACT TO AMEND THE
7 CHARTER OF THE CITY OF DURHAM AS IT RELATES TO VOLUNTARY
8 ANNEXATIONS, PROTEST PETITIONS, THE APPROVAL OF PAYMENT OF
9 FACILITIES FEES, AND THE RENAMING OF THE SUBDIVISION REVIEW
10 BOARD, AND TO AMEND THE CHARTER OF THE CITY OF SANFORD
11 RELATING TO THE PUBLICATION OF FRANCHISE ORDINANCES.

12 The General Assembly of North Carolina enacts:

13 Section 1. Section 4.2 of the Charter of the City of Concord, being Chapter
14 861 of the 1985 Session Laws, as amended, reads as rewritten:

15 "Sec. 4.2. City Manager. The ~~Board of Aldermen~~ City Council shall appoint a City
16 Manager who shall be the chief administrator of city government, and who shall be
17 responsible to the ~~Board~~ Council for the proper administration of the affairs of the city.

1 The Manager shall be appointed on the basis of merit only, and he shall serve at the
2 pleasure of the ~~Board~~Council. Although he need not be a resident at the time of his
3 appointment, the Manager shall become a resident of the city after his appointment. In
4 exercising his duties as chief administrator, the Manager shall have the following powers
5 and duties:

6 (a) He shall appoint, suspend or remove all city officers and employees not
7 elected by the people, and whose appointment or removal is not otherwise provided for
8 by law, except the ~~City Attorney, City Finance Director, Tax Collector, and City Clerk, City~~
9 Attorney and Tax Collector, in accordance with such general personnel rules, regulations,
10 policies, or ordinances as the ~~Board~~Council may adopt.

11 (b) He shall direct and supervise the administration of all departments, offices,
12 and agencies of the city, subject to the general direction and control of the ~~Board~~,
13 Council, except as otherwise provided by law.

14 (c) He shall attend all meetings of the ~~Board~~Council and recommend any
15 measures that he deems expedient.

16 (d) He shall see that all laws of the State, the City Charter and the ordinances,
17 resolutions and regulations of the ~~Board~~Council are faithfully executed within the city.

18 (e) He shall prepare and submit the annual budget and capital program to the city.

19 (f) He shall annually submit to the ~~Board~~Council and make available to the public a
20 complete report on the finances and administrative activities of the city as of the end of
21 the fiscal year.

22 (g) He shall make any other reports that the ~~Board~~Council may require concerning the
23 operations of the city departments, offices, and agencies subject to his direction and
24 control.

25 (h) He shall perform any other duties that may be required and authorized by the
26 ~~Board~~Council."

27 Section 2. Sections 4.5 and 4.6 of the Charter of the City of Concord, being
28 Chapter 861 of the 1985 Session Laws, as amended, are repealed.

29 Section 3. The Charter of the City of Concord, being Chapter 861 of the 1985
30 Session Laws, as amended, is amended by adding a new Article to read:

31 **"ARTICLE VI.**

32 "Sec. 6.1. Direct voting on issues by the people. The City Council may adopt an
33 ordinance providing for a procedure of direct voting on issues by the people. Such an
34 ordinance shall contain either or both of the following provisions:

- 35 (1) When twenty-five percent (25%) of the qualified voters of the city apply
36 to the Council by signed petition for the purpose of voting upon any
37 question of public interest which that petition requests be submitted to a
38 vote of the citizens of the city, the Council shall order a referendum on
39 the question. The election shall be held not more than 120 nor fewer
40 than 60 days after receipt of the petition. No special act shall be
41 necessary to authorize the Council to order that referendum. The
42 Council shall order as many referenda under the provisions of this
43 section as it may be petitioned to call in the manner set out in this

1 section. The Council shall call more than one election to be held for the
2 purpose of voting upon the same question if a petition is filed, as herein
3 provided, requesting the Council to call that election, notwithstanding
4 the fact that a prior election may have been held for the purpose of
5 ascertaining the wishes of the citizens of the city on the same question.

- 6 (2) The Council may submit to a vote of the people of the city any
7 resolution or ordinance passed by the Council or any other question of
8 public interest, if the Council resolves to do so by a vote of three-fifths
9 of its total members.

10 If a referendum is called under either subdivision (1) or (2) of this section, the county
11 board of elections shall cause the ordinance or resolution to be voted on to be published
12 in accordance with G.S. 163-33. If a referendum is called under either subdivision (1) or
13 (2) of this section and a majority of the qualified voters voting vote in favor of the
14 measure proposed, then the vote of the people shall be binding upon the Council and the
15 city, and the measure shall become effective throughout the city on the date the results
16 are certified unless the measure contains another effective date.

17 "Sec. 6.2. The City Council may, by majority vote, repeal an ordinance for a direct
18 vote on issues by the people it has adopted under Sec. 6.1."

19 Section 4. (a) The Cabarrus County Board of Commissioners may adopt an
20 ordinance providing for a procedure of direct voting on issues by the people. Such an
21 ordinance shall contain either or both of the following provisions:

- 22 (1) When twenty-five percent (25%) of the qualified voters of the county
23 apply to the Board by signed petition for the purpose of voting upon any
24 question of public interest which that petition requests be submitted to a
25 vote of the citizens of the county, the Board shall order a referendum on
26 the question. The election shall be held not more than 120 nor fewer
27 than 60 days after receipt of the petition. No special act shall be
28 necessary to authorize the Board to order that referendum. The Board
29 shall order as many referenda under the provisions of this section as it
30 may be petitioned to call in the manner set out in this section. The Board
31 shall call more than one election to be held for the purpose of voting
32 upon the same question if a petition is filed, as herein provided,
33 requesting the Board to call that election, notwithstanding the fact that a
34 prior election may have been held for the purpose of ascertaining the
35 wishes of the citizens of the county on the same question.

- 36 (2) The Board may submit to a vote of the people of the county any
37 resolution or ordinance passed by the Board or any other question of
38 public interest, if the Board resolves to do so by a vote of three-fifths of
39 its total members.

40 If a referendum is called under either subdivision (1) or (2) of this section, the county
41 board of elections shall cause the ordinance or resolution to be voted on to be published
42 in accordance with G.S. 163-33. If a referendum is called under either subdivision (1) or
43 (2) of this subsection and a majority of the qualified voters voting vote in favor of the

1 measure proposed, then the vote of the people shall be binding upon the Board of
2 Commissioners and the county, and the measure shall become effective throughout the
3 county on the date the results are certified unless the measure contains another effective
4 date.

5 (b) The Cabarrus County Board of Commissioners may, by majority vote,
6 repeal an ordinance for a direct vote on issues by the people it has adopted under
7 subsection (a) of this section.

8 Section 5. The Charter of the City of Durham, being Chapter 671 of the 1975
9 Session Laws, as amended, is amended by adding a new section to read:

10 "Sec. 2.6. Petition Annexation Appeals. Any judicial action contesting the validity of
11 an annexation by the City pursuant to Part 1 or 4 of Article 4A of Chapter 160A of the
12 General Statutes shall be filed within 30 days after the adoption of the annexation
13 ordinance."

14 Section 6. Section 115.6(b) of the Charter of the City of Durham, being
15 Chapter 671 of the 1995 Session Laws, as added by Chapter 476 of the 1989 Session
16 Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:

17 "(b) The City Council may permit the payment of a facilities fee in a lump sum or
18 in equal monthly or annual installments over a period of time not to exceed 10 years. The
19 City Council may delegate authority to the city manager, or designee of the city manager,
20 to authorize the payment of a facilities fee in installments when requested by the person
21 who is responsible for paying the fee. If paid in installments, such installments shall bear
22 interest at a rate fixed by the City Council of not more than nine percent (9%) per annum
23 from the date when payment by lump sum would have otherwise been due. the City approves
24 payment of the facilities fee in installments. The facilities fee, with accrued interest, may
25 be paid in full at any time."

26 Section 7. Subsection (3) of Section 97 of the Charter of the City of Durham,
27 being Chapter 671 of the 1975 Session Laws, reads as rewritten:

28 "(3) The City Council may provide for the appointment of a board to be
29 known as a ~~Subdivision Review Board consisting of not less than four nor~~
30 ~~more than six members~~ Development Review Board consisting of four or
31 more members who shall serve without pay as such members, each of
32 whom shall be appointed by the Council for a term of years or for a term
33 at the will of the Council, as may be determined by the Council; in the
34 event the Council appoints such Board for a term of years, the term of
35 the office of each member shall be three years. ~~Such Subdivision~~ The
36 Development Review Board shall hear and decide appeals from and
37 review any order, requirement, decision or determination made by any
38 administrative official charged with the enforcement of any ordinance
39 adopted pursuant to this section. It shall also hear and decide all matters
40 referred to in or upon which it is required to pass under any such
41 ordinance. The affirmative vote of a majority of members of the Board
42 shall be necessary to reverse any order, requirement, decision or
43 determination of any administrative official, or to decide in favor of the

1 applicant any matter upon which it is required to pass under any such
2 ordinance or to effect any variation in any of the provisions of such
3 ordinance. Every decision of such Board shall, however, be subject to
4 review by proceedings in the nature of certiorari. Such appeal may be
5 taken by any person aggrieved or by an officer, department, board or
6 bureau of the City. Such appeal shall be taken within such time as shall
7 be prescribed by the ~~Subdivision~~-Development Review Board by general
8 rule, by filing with the officer from whom the appeal is taken and with
9 the ~~Subdivision~~-Development Review Board a notice of appeal,
10 specifying the grounds thereof. The officer from whom the appeal is
11 taken shall forthwith transmit to the Board all the papers constituting the
12 record upon which the action appealed from was taken. An appeal from
13 the administrative official to the ~~Subdivision~~-Development Review
14 Board stays all proceedings in furtherance of the action appealed from
15 until the decision of the ~~Subdivision~~-Development Review Board is
16 rendered, at which time the stay of proceedings shall cease, unless the
17 proceedings shall be further stayed by a restraining order granted by a
18 court of record or by the ~~Subdivision~~-Development Review Board. The
19 ~~Subdivision~~-Development Review Board shall fix a reasonable time for
20 the hearing of the appeal from the administrative official and shall give
21 due notice thereof to the parties, and decide the same within a
22 reasonable time. Upon the hearing, any party may appear in person or
23 by agent or by attorney. The ~~Subdivision~~-Development Review Board
24 may reverse or affirm, wholly or partly, or may modify the order,
25 requirement, decision, action or determination appealed from, and shall
26 make such order, requirement, decision or determination as in its
27 opinion ought to be made in the premises, and to that end shall have all
28 of the powers of the officer from whom the appeal is taken. Where
29 there are practical difficulties or unnecessary hardships in the way of
30 carrying out the strict letter of such ordinances, the ~~Subdivision~~
31 Development Review Board shall have the power, in passing upon
32 appeals, to vary or modify any of the regulations or provisions of such
33 ordinances relating to subdivisions, plats, maps and all other
34 requirements of the ordinance, in harmony with the general purpose and
35 intent of this section, so that the spirit of the ordinance may be observed,
36 public safety, convenience and welfare secured and substantial justice
37 done."

38 Section 8. The Charter of the City of Durham, being Chapter 671 of the 1975
39 Session Laws, is amended by adding the following new section:

40 "Section 94.4. Protest Petitions.

41 The provisions of G.S. 160A-386, as applied to the City of Durham, are modified to
42 require that protest petitions be received by the city clerk in sufficient time to allow the
43 City at least four normal work days, excluding Saturdays, Sundays, and legal holidays,

1 before the date established for a public hearing on the proposed charge or amendment to
2 determine the sufficiency and accuracy of the petition."

3 Section 9. The Charter of the City of Sanford, as enacted by Chapter 650 of
4 the Session Laws of 1967, and as amended by Chapter 403 of the Session Laws of 1987,
5 is further amended as follows:

6 "Sec. 3.10. ~~Publication and~~ Reading of Ordinance. ~~No ordinance granting any~~
7 ~~franchise for the use of the streets, sidewalks, highways or other public property of the~~
8 ~~City shall be passed until the full text thereof shall have been published for three weeks in~~
9 ~~a newspaper having general circulation in the City at the expense of the applicant~~
10 ~~applying for such franchise, before the second reading of such ordinance. A copy of a~~
11 proposed ordinance granting any franchise for the use of the streets, sidewalks, highways
12 or other public property of the City shall be made available in the office of the City Clerk
13 for public inspection. All such ordinances shall be read at two separate regular meetings
14 of the Board of Aldermen and a 'yea' and 'nay' vote shall be taken and recorded on the
15 first and second readings. The rules shall not be suspended so as to pass any such
16 ordinance in a shorter time."

17 Section 10. This act is effective when it becomes law.