

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

Short Title: Concord Charter.

(Local)

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Sponsors:

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Referred to:

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April 3, 1997

A BILL TO BE ENTITLED

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

11 The General Assembly of North Carolina enacts:

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

14 "Sec. 4.2. City Manager. The ~~Board of Aldermen~~ City Council shall appoint a City  
15 Manager who shall be the chief administrator of city government, and who shall be  
16 responsible to the ~~Board~~ Council for the proper administration of the affairs of the city.  
17 The Manager shall be appointed on the basis of merit only, and he shall serve at the  
18 pleasure of the ~~Board~~ Council. Although he need not be a resident at the time of his

1 appointment, the Manager shall become a resident of the city after his appointment. In  
2 exercising his duties as chief administrator, the Manager shall have the following powers  
3 and duties:

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

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

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

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

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

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

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

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

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

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

29 **"ARTICLE VI.**

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

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

1           provided, requesting the Council to call that election, notwithstanding  
2           the fact that a prior election may have been held for the purpose of  
3           ascertaining the wishes of the citizens of the city on the same question.

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

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

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

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

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

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

38 If a referendum is called under either subdivision (1) or (2) of this section, the county  
39 board of elections shall cause the ordinance or resolution to be voted on to be published  
40 in accordance with G.S. 163-33. If a referendum is called under either subdivision (1) or  
41 (2) of this subsection and a majority of the qualified voters voting vote in favor of the  
42 measure proposed, then the vote of the people shall be binding upon the Board of  
43 Commissioners and the county, and the measure shall become effective throughout the

1 county on the date the results are certified unless the measure contains another effective  
2 date.

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

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

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

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

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

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

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

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

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

38 "Section 94.4. Protest Petitions.

39 The provisions of G.S. 160A-386, as applied to the City of Durham, are modified to  
40 require that protest petitions be received by the city clerk in sufficient time to allow the  
41 City at least four normal work days, excluding Saturdays, Sundays, and legal holidays,  
42 before the date established for a public hearing on the proposed charge or amendment to  
43 determine the sufficiency and accuracy of the petition."

1           Section 9. This act is effective when it becomes law.