

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 629
HOUSE BILL 53

1 AN ACT AUTHORIZING THE QUALIFIED VOTERS OF THE SEVERAL CITIES AND
2 TOWNS OF THE STATE TO AMEND THEIR CORPORATE CHARTERS
3 CONCERNING THE MODE OF SELECTION OF THE GOVERNING BOARD.
4

5 The General Assembly of North Carolina do enact:
6

7 **Section 1.** Articles 21. 22 and 23 of Chapter 160 of the General Statutes of North
8 Carolina, comprising G.S. Sections 160-291 through 160-363, inclusive, are hereby repealed.

9 **Sec. 2.** A new Article 21 is inserted in Chapter 160 of the General Statutes of North
10 Carolina as follows:

11 "Article 21

12 Amendment of City Charters

13 Part 1. Composition and Mode of Election of Governing Board.

14 **Section 160-291. Optional forms.** The governing board of any city or town may amend its
15 charter or the general law, whichever is applicable, to adopt a new form of municipal
16 government composed of any combination of the options prescribed by this Section:

17 (1) Name and style of the municipal corporation:

18 (a) The municipal corporation shall be styled the City of
19 _____.

20 (b) The municipal corporation shall be styled the Town of
21 _____.

22 (c) The municipal corporation shall be styled the Village of
23 _____.

24 (2) Style of governing board:

25 (a) The governing board shall be known as the Board of Commissioners.

26 (b) The governing board shall be known as the Board of Aldermen.

27 (c) The governing board shall be known as the Council.

28 (3) Terms of office of members of the governing board:

29 (a) The board shall be elected for terms of two years.

30 (b) The board shall be elected for terms of four years.

31 (c) The board shall be elected for overlapping terms of four years.

32 If the board consists of an even number of members, at the first election following adoption
33 of option (c), one-half of the members shall be elected for four-year terms, and one-half shall
34 be elected for two-year terms. If the board consists of an odd number of members, at the first
35 election following adoption of option (c), a simple majority of the members shall be elected for
36 four-year terms and the remainder of the members shall be elected for two-year terms. In both
37 cases those members elected with the highest number of votes shall serve the four-year terms.
38 At all elections following the first election under option (c), members shall be elected for four-
39 year terms.

40 (4) Number of members of the governing board:

41 (a) The board shall consist of any number of members not less than three
42 nor more than twelve.

43 (5) Mode of election of the governing board:

- (a) All candidates shall be nominated and elected by all the qualified voters of the municipality.
- (b) The municipality shall be divided into wards; members of the board shall be apportioned to the wards so that each member represents the same number of persons as nearly as possible, except for members apportioned to the municipality at large, if any; the qualified voters of each ward shall nominate and elect candidates who reside in the ward for seats apportioned to that ward; and all the qualified voters of the municipality shall nominate and elect candidates apportioned to the municipality at large, if any.
- (c) The municipality shall be divided into wards; members of the board shall be apportioned to the wards so that each member represents the same number of persons as nearly as possible, except for members apportioned to the municipality at large; and candidates shall reside in and represent the wards according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the municipality.
- (d) The municipality shall be divided into wards; members shall be apportioned to each ward so that each member represents the same number of persons as nearly as possible, except members apportioned to the municipality at large, if any; the qualified voters of each ward shall nominate two candidates who reside in the ward for each seat apportioned to that ward in a nonpartisan primary, and the qualified voters of the entire municipality shall nominate two candidates for each seat apportioned to the municipality at large, if any; and all candidates shall be elected by all the qualified voters of the municipality.

If either of options (b), (c), or (d) is adopted, the governing board shall divide the municipality into the requisite number of wards according to the apportionment plan adopted, and shall cause a map of the wards so laid out to be drawn up and recorded in the office of the municipal clerk, where it shall be available for public inspection. The governing board shall have authority to revise ward boundaries from time to time to correct imbalances in ward population and to account for newly annexed territory. The governing board shall also have authority to revise the apportionment plan from time to time in order to insure that each member represents the same number of persons as nearly as possible, but in no event may more than one-half of the governing board be apportioned to the municipality at large. The initial ordinance or petition initiating adoption of either of options (b), (c), or (d) may specify the number of wards to be laid out, but the drawing of ward boundaries and apportionment of members to the wards shall be done in all cases by the governing board.

(6) Primaries:

- (a) There shall be no municipal primary but all candidates shall be nominated and elected at the regular municipal election,
- (b) There shall be a non-partisan primary to nominate two candidates for each vacancy on the board to be filled at the regular municipal election,
- (c) There shall be a primary at which each political party shall nominate one candidate for each vacancy on the board to be filled at the regular municipal election.

Options (a) and (c) may not be adopted by any municipality which has adopted option (d) of subsection (5) of this Section.

(7) Selection of Mayor:

- 1 (a) The mayor shall be elected by all the qualified voters of the
2 municipality for a term of two years.
3 (b) The mayor shall be elected by all the qualified voters of the
4 municipality for a term of four years.
5 (c) The mayor shall be selected by the governing board from among its
6 membership to serve at its pleasure.

7 Part 2. City Manager.

8 **Sec. 160-292. Adoption of manager plan.** The governing board of any city or town may
9 amend its charter by adopting G.S. Sec. 160-293 as a part of its charter. The words "city" and
10 "council" may be replaced with the correct terminology for the particular municipality.

11 **Sec. 160-293.** (a) Appointment of city manager. The Council may appoint a city manager for
12 an indefinite term and may fix his compensation. The manager shall be appointed solely on the
13 basis of his executive and administrative qualifications. He need not be a resident of the city or
14 State at the time of his appointment, but shall become a resident of the city as soon after his
15 appointment as possible. He shall not be deemed an officer of the city within the meaning of
16 Article XIV, Section 7, or Article VI, Section 7, of the Constitution of North Carolina.

17 (b) Powers and duties of manager. The manager shall be the chief administrator of the
18 city. He shall be responsible to the Council for the administration of all municipal affairs placed
19 in his charge by them, and shall have the following powers and duties:

- 20 (1) He shall appoint and, when he deems it necessary for the good of the service,
21 suspend or remove all municipal employees in accordance with such general
22 personnel rules, regulations, policies, or ordinances as the Council may
23 adopt, except the City Attorney and the City Clerk.
24 (2) He shall direct and supervise the administration of all departments, offices,
25 and agencies of the city, subject to the general direction and control of the
26 Council, except as otherwise provided by law.
27 (3) He shall attend all meetings of the Council and recommend for adoption
28 such measures as he shall deem expedient.
29 (4) He shall see that all laws of the State and the ordinances, resolutions, and
30 regulations of the Council are faithfully executed within the city.
31 (5) He shall prepare and submit the annual budget and capital program to the
32 Council.
33 (6) He shall submit to the Council and make available to the public a complete
34 report on the finances and administrative activities of the city as of the end
35 of the fiscal year.
36 (7) He shall make such other reports as the Council may require concerning the
37 operations of city departments, offices, and agencies subject to his direction
38 and control.
39 (8) He shall perform such other duties as may be required or authorized by the
40 Council.

41 **Sec. 160-294. Existing charter provisions not affected.** Sections 160-292 and 160-293 shall
42 not apply to any city or town whose charter provides for the appointment of a city or town
43 manager and shall not be construed to permit the amendment or repeal of any such provisions.

44 Part 3. How Amendment Adopted.

45 **Sec. 160-295. Initiative by governing board.** (a) The governing board may adopt an
46 ordinance amending the charter or general law applicable to the municipality in any of the
47 particulars set out in Sections 160-291 and 160-293. The ordinance shall be passed for the first
48 time not later than 90 days before the deadline for filing notice of candidacy for the municipal
49 governing board, or, if no such deadline is prescribed by law or ordinance, not later than 120
50 days before the municipal election. The ordinance may combine adoption of the manager plan
51 as permitted by Sec. 160-293 with modification of the charter in the particulars permitted by

1 Sec. 160-291, or separate ordinances under Secs. 160-291 and 160-293 may be adopted. If
2 separate ordinances are adopted, they may be considered at the same meetings and the same
3 public hearing, but shall be considered separate ordinances for the purposes of Sec. 160-296.
4 Following passage on first reading, the substance of the ordinance shall be published in some
5 newspaper having a general circulation in the municipality. Following this publication the
6 board shall call a public hearing on the ordinance. Following the public hearing, the board shall
7 read the ordinance for a second time and if it shall pass its second reading, it shall take effect
8 for the next succeeding regular municipal election, unless submitted or petitioned to a vote of
9 the people as hereinafter provided.

10 (b) The governing board may not adopt an ordinance amending the charter between the
11 time of registration of an initiative petition pursuant to Sec. 160-298 and the time the plan
12 proposed in such petition takes effect, unless the petition shall be declared invalid for failure to
13 meet the requirements imposed by Sec. 160-297 and 160-298, or unless the plan proposed by
14 the petition fails of adoption by the voters: Provided, that this subsection shall not apply to an
15 ordinance proposing charter amendments under Sec. 160-291 if the petition proposes only
16 adoption of the manager form of government under Sec. 160-293, nor to an ordinance
17 proposing adoption of the manager form of government under Sec. 160-293 if the petition
18 proposes only charter amendments under Sec. 160-291.

19 **Sec. 160-296. Referendum on new plan initiated by the governing board.** The governing
20 board may of its own motion, and shall upon receipt of a valid petition bearing the signatures of
21 a number of qualified voters of the municipality equal to at least fifteen percent (15%) of the
22 whole number of voters who participated in the last regular municipal election, submit any
23 ordinance adopted pursuant to Sec. 160-295 to a vote of the people. No petition shall be valid
24 unless delivered to the mayor or clerk at least 60 days prior to the deadline for filing notice of
25 candidacy for the municipal governing board, or, if no such deadline is prescribed by law or
26 ordinance, at least 90 days before the municipal election.

27 **Sec. 160-297. Initiative by the people,** (a) The people may initiate a referendum on adoption
28 of a new form of government by petition. The petition shall bear the signatures of a number of
29 qualified voters of the municipality equal to at least twenty-five percent (25%) of the whole
30 number of voters who participated in the last regular municipal election. It may propose only
31 one form of government for submission to the voters and shall be in substantially the following
32 form:

33 To the _____ (governing board) of _____ (municipality) _____

34 We, the undersigned qualified voters of _____ (municipality) _____, do hereby request
35 that you submit to the people the question of whether to adopt a new form of government as
36 follows: — (describe the proposed plan briefly but completely and refer to the pertinent
37 provisions of Sec. 160-291 and/or 160-293). No petition shall be valid which proposes any
38 form of government not entirely composed of the options set out in Sec. 160-291 or 160-293.
39 No petition shall be valid unless received by the mayor or clerk at least 120 days prior to the
40 deadline for filing notice of candidacy for the municipal governing board, or, if no such
41 deadline is prescribed by law or ordinance, at least 150 days before the municipal election.
42 Upon receipt of such a valid petition, the governing board shall fix a date for submitting the
43 new form of government to the people.

44 (b) No initiative petition shall be valid, nor shall any be registered, between the time of
45 the first reading of an ordinance of the governing board initiating a new plan of government
46 and the time such plan takes effect, unless the ordinance fails of passage on second reading or
47 fails of adoption by the voters: Provided, that this subsection shall not apply to a petition
48 proposing charter amendments under Sec. 160-291 if the ordinance proposes only adoption of
49 the manager form of government under Sec. 160-293, nor to a petition proposing adoption of
50 the manager form of government under Sec. 160-293 if the ordinance proposes only charter
51 amendments under Sec. 160- 291.

Sec. 160-298. Registration and priority of petitions. Any person or group of persons proposing to circulate an initiative petition under Sec. 160-297 shall register the petition with the municipal clerk before attempting to obtain signatures thereon. The clerk shall retain a copy of the petition and shall note thereon the date and hour of registration. Petitions shall be assigned priority in the order in which they are registered: Provided, that if a petition requesting charter amendments under Sec. 160-291 but not under Sec. 160-293 and a petition requesting adoption of the manager form of government under Sec. 160-293 but not amendments under Sec. 160-291 are both registered, both petitions shall be assigned equal priority, and shall both be submitted to the voters if validly completed and filed.

Sec. 160-299. Submission of propositions; form of ballot. A proposition to approve an ordinance or petition under Sec. 160-291 shall be printed on the ballot in substantially the following form:

- ☐ FOR the ordinance (or petition) (describe the effect of the ordinance or petition).
- ☐ AGAINST the ordinance (or petition) A proposition to approve an ordinance or petition under Section 160-293 shall be printed on the ballot in substantially the following form:
- ☐ FOR the ordinance (or petition) adopting the city manager form of government.
- ☐ AGAINST the ordinance (or petition) adopting the city manager form of government.

The ballot shall be separate and distinct from all other ballots used at the election. If separate ordinances under Sections 160-291 and 160-293, or both an ordinance and a petition under Section 160-297, or two petitions under Section 160-297, are submitted at the same election, both propositions shall be printed on the same ballot in the appropriate form as provided above. If a majority of the votes cast on a proposition shall be in favor of the proposition the plan contained therein shall be put into effect as provided by Sections 160-301 and 160-302 and may thereafter be altered only in accordance with Sections 160-295 or 160-297. If a majority of the votes cast shall be against the proposition, the ordinance proposing the amendments shall be void or the governing board shall take no action on the petition, as the case may be.

Section 160-300. Plan to continue for two years. Should any new form of government be adopted as provided in this Article, it shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder; and no ordinance or petition proposing a different plan shall be adopted or filed during the period of one year and six months after such adoption.

Section 160-301. Municipal officers to carry out plan. It shall be the duty of the mayor, the governing board, the city clerk, and other city officials in office, and all boards of election and election officials, when any plan of government is adopted as provided by this Article or if proposed for adoption, to comply with all requirements of this Article, to the end that all things may be done which are necessary for the nomination and election of the officers first to be elected under the new plan so adopted.

Section 160-302. Effective date. The governing board may submit new forms of government proposed under this Article at any regular or special municipal election, or at a special election called for that sole purpose. If plans are submitted at a special election held at least 180 days prior to a regular municipal election, any new form of government adopted shall take effect for the next succeeding regular municipal election. If plans are submitted at a special election held within 180 days before a regular municipal election, any new form of government adopted shall take effect for the regular municipal election held two years after the regular municipal election next succeeding the special election. If plans are submitted at a regular municipal election, any new form of government adopted shall take effect for the next succeeding regular municipal election.

Part 4. Effect of Adoption.

Section 160-303. Municipal corporation continued. Any city or town which shall adopt a new form of government as provided in this Article shall thereafter be governed by the provisions thereof, and the inhabitants of the city or town shall continue to be a municipal

corporation, and shall have, exercise, and enjoy all the rights, immunities, powers, and privileges, and shall be subject to all the duties, liabilities, and obligations pertaining to or incumbent upon the city or town as a municipal corporation.

Section 160-304. Ordinances remain in force. All ordinances, resolutions, orders, and other regulations of a city or town or of any authority, body, or officer thereof existing at the time when such city or town adopts a new form of government as provided in this Article shall continue in full force and effect until annulled, repealed, modified, or superseded.

Section 160-305. Charters to remain in force. All special, local, or private acts of the General Assembly applicable to any city or town which adopts a new form of government as provided in this Article shall continue in full force and effect notwithstanding adoption of a new form of government, except to the extent modified by an ordinance adopted under the authority conferred and pursuant to the procedures prescribed by this Article."

Sec. 3. Notwithstanding the repeal of Article 22 of Chapter 160 of the General Statutes of North Carolina by this Act, any city or town whose charter heretofore enacted by the General Assembly incorporates by reference any of the provisions of Chapter 160, Article 22, shall continue to be governed by the provisions of said Article as it read on January 1, 1969, until such time as the charter shall be amended, or the form of government changed as provided by this Act.

Sec. 4. All laws and clauses of laws in conflict with this Act are repealed.

Sec. 5. This Act shall take effect upon its ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1969.