

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 930
HOUSE BILL 1289

AN ACT TO AMEND CHAPTER 97, PRIVATE LAWS OF 1895, THE CHARTER
OF THE CITY OF BELMONT.

The General Assembly of North Carolina do enact:

APPOINTMENT OF CITY MANAGER: DUTIES, COMPENSATION

Section 1. The Board of Commissioners of the City of Belmont shall, within one year from the date of ratification of this Act cause to be submitted to the qualified voters of the City of Belmont at a special election called by the Board of Commissioners of the City for that purpose, the following amendment to the Charter of the City of Belmont in Gaston County:

The Charter of the City of Belmont in Gaston County be, and the same is hereby, amended by adding thereto the following:

"(a) CITY MANAGER: APPOINTMENT.

The Mayor and Board of Commissioners shall appoint a City Manager who shall be responsible for the administration of all departments of the City government. In the selection of a City Manager, the Mayor and each member of the Board of Commissioners shall have one vote. A tie vote shall be deemed a vote against the proposed appointment. The City Manager shall be appointed with regard to merit only. He shall hold office during the pleasure of the Mayor and Board of Commissioners and shall receive such compensation as it shall fix by ordinance. No person elected as Mayor or on the Board of Commissioners shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed following the expiration of the term for which he was elected to membership.

"(b) REMOVAL.

The City Manager may be removed by a majority vote of the Mayor and members of the Board of Commissioners. In the removal of a City Manager the Mayor and each member of the Board of Commissioners shall have one vote. A tie vote shall be deemed a vote against the proposed removal of the Manager. If upon notice of removal the Manager shall request a formal removal proceeding, such removal shall not become effective for thirty (30) days and the Manager, if he shall so request, shall be furnished with a formal statement in the form of a resolution passed by a majority vote of the Mayor and members of the Board of Commissioners stating the intention of the Mayor and Board to remove him and the reasons therefor. The Manager may reply in writing to such resolution and if he shall so request Mayor and the Board of Commissioners shall fix a time for a public hearing upon the question of his removal, and the final resolution removing the Manager shall not be adopted until such public hearing has been held.

Upon passage of a resolution stating the intention of the Mayor and Board of Commissioners to remove the Manager, the Mayor and Board of Commissioners may suspend him from duty, but his pay shall continue until his removal shall become effective as herein described. The action of the Mayor and Board of Commissioners in removing the Manager shall be final. In case of absence or disability of the Manager, the Mayor and Board of Commissioners may designate a qualified administrative officer of the City to perform the duties of the Manager during such absence or disability.

"(c) RESPONSIBILITY OF MANAGER: POWERS OF APPOINTMENT AND REMOVAL.

"1. The City Manager shall be responsible to the Mayor and Board of Commissioners for the proper administration of all affairs of the City placed in his charge and to that end, subject to the provisions of the City Charter, provisions of the general law, and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the city. He may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Every appointment and removal made by the City Manager or under his authority or direction shall be reported to the Board of Commissioners at the next meeting of said Board following the appointment or removal.

"2. The work of the City shall be divided into departments for each of which a department head shall be appointed by the City Manager. All such appointments, however, shall have the prior approval of the Board of Commissioners. The number of departments and their respective areas of responsibility shall be defined from time to time by resolution of the Board of Commissioners.

"3. The members of committees, commissions, boards and other similar adjuncts of the city government, and the city clerk, city treasurer, city auditor and city attorney now appointed or authorized to be appointed by the Board of Commissioners in conformity with the City Charter and ordinances and the general law of the State of North Carolina, and as may hereafter be provided for or required by the ordinances of the City or the general law of the State, shall continue to be appointed by the Board of Commissioners.

"4. Appointments made by or under the authority or direction of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be made without definite terms unless for provisional, temporary or emergency service, and unless specific terms are provided for by general law or charter provisions.

"5. The salaries and compensation of the officers and employees of the City shall be fixed by the Board of Commissioners, and they shall perform such duties as may be required of them by the City Manager, under general regulations of the Board of Commissioners and under the general law of the State.

"(d) REMOVAL OF OFFICERS AND EMPLOYEES. Any officer or employee for whom the City Manager or a head of a department or office acting under the

authority or direction of the City Manager, may appoint a successor, may be removed or discharged by the City Manager or by the head of a department or office who appointed him at any time. Subject to the following provisions, the decision of the Manager or other appointing officer shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

"If, upon notice of removal or discharge by the Manager, a department head shall request a formal removal proceeding, such removal or discharge shall not become effective until the department head, if he shall so request, shall be furnished with a formal statement by the Manager stating the reasons for his removal or dismissal. The department head may reply in writing to such statement and the Board of Commissioners shall consider such statements, together with any other pertinent information, in resolving the matter. If a department head shall request a formal proceeding, he shall not be removed or discharged pending a decision by the Board of Commissioners but shall be deemed suspended from duty. The Board shall meet at the first reasonably convenient date to resolve the matter and a suspended officer's pay shall continue until his removal or discharge shall become effective as herein provided. The action of the Board of Commissioners in removing the officer shall be final. In case of the absence or disability of a department head, the Manager, with the approval of the Board of Commissioners, may designate a qualified administrative officer of the City to perform the duties of the department head during such absence or disability.

"In the case of any other employee of the City, the decision of the City Manager with respect to removal or discharge shall be final. Any employee appointed by a head of department or office under the authority and direction of the Manager and who is removed or discharged by such head of department or office shall have the right to immediately appeal his removal or discharge to the City Manager whose decision shall be final.

"(e) BOARD OF COMMISSIONERS NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS.

Except as to the department heads, which shall be appointed by the Manager with the approval of the Board of Commissioners, neither the Board of Commissioners nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the City Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and except as to department heads, the Board of Commissioners and its members shall deal with the administrative service solely through the Manager, and neither the Board of Commissioners nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately.

"(f) DUTIES OF THE MANAGER.

The City Manager shall be the Administrative head of the City Government and shall be responsible for the administration of all departments thereof. It shall be the duty of the City Manager to act as the Purchasing Agent of the City; to act as Chief Conservator of the peace within the City; to supervise the administration of the affairs of the City; to see that within the City the ordinances, resolutions and regulations of the

Board of Commissioners and the laws of the State are faithfully executed and enforced; to attend all meetings of the Board and to make such recommendations to the Board concerning the affairs of the City as may seem to him expedient or desirable; to keep the Board of Commissioners fully advised of the financial condition of the City and of its anticipated future financial needs; to prepare and submit to the Board such reports as may be required or requested by said Board, or as shall seem to him advisable and in the best interest of the City; and to perform such other duties as may be required of him herein, or by ordinance, resolution or regulation of the Board of Commissioners.

"The City Manager shall prepare and submit to the Board of Commissioners an annual budget proposal or estimate for the operation of the City and shall keep the Board of Commissioners and the Mayor fully advised of the financial condition of the City and of its expected and anticipated future financial need.

"The City Manager shall have such authority to authorize and make disbursements as is granted him by the general law and from time to time by ordinance or resolution of the Board of Commissioners. Pursuant to the provisions of the general law and any ordinance or resolution adopted by the Board of Commissioners, the City Manager shall take such action and do such things as shall be reasonably necessary to carry out the procedure or contract approved or authorized by the Board of Commissioners or as otherwise directed by the Board.

"The Mayor and Board of Commissioners, with the advice of the City Manager, shall determine the number of officers and employees necessary for the proper administration of the City.

"The City Manager, as the administrative head of the government of the City, and the Mayor, as elected head of the City Government and as the chief officer of the City, shall cooperate in their respective offices so as to work effectively for the continued good government of the City and in such manner as from time to time shall be in the best interest and welfare of the citizens and residents of the City of Belmont.

"(g) OFFICERS AND EMPLOYEES.

The officers and employees of the City, except as otherwise herein provided, shall perform such duties as may be required of them by the City Manager, or by their immediately superior officer or department head acting under the City Manager, and under the general regulations of the Board of Commissioners."

Sec. 2. The said election shall be called within the period herein specified by Resolution of the Board of Commissioners and shall be conducted and the result thereof determined and declared by the Board of Commissioners of the City of Belmont as is now provided by law for the election of the Mayor and members of the Board of Commissioners, and the holding of said election and the canvassing of the returns and all other matters pertaining to said election shall be as provided by law for the election of the Mayor and Board of Commissioners of the City of Belmont. At such election, ballots shall be provided for the voters containing the words "FOR AMENDMENT PROVIDING FOR CITY MANAGER FORM OF GOVERNMENT," and "AGAINST AMENDMENT PROVIDING FOR CITY MANAGER FORM OF GOVERNMENT." If a majority of the votes cast in said election shall be cast "For City Manager Form of

Government", the same shall become effective and be operative in the City of Belmont from and after the first day of the month following the date of election.

If a majority of the votes cast in said election shall be cast "Against City Manager Form of Government", said amendment shall be null and void and shall not become a part of the Charter of the City of Belmont.

Sec. 3. All ordinances, resolutions, orders, or other lawful regulations of the City of Belmont, and any duly authorized commission, committee, or other body thereof, existing at the time the Charter amendment herein provided is adopted and becomes effective shall continue in full force and effect until annulled, repealed, modified or superseded as provided by law.

Sec. 4. If any provision of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 5. Nothing in this Act shall prohibit the Board of Commissioners nor the voters of the City of Belmont from proceeding to make any changes in the form or structure of the government of the City of Belmont as authorized by Article 21 of Chapter 160 of the General Statutes. After the special election provided for in this Act, and regardless of the result thereof, any subsequent changes in the form or the structure of the government of the City of Belmont shall be made in the manner and under the procedures provided by Article 21 of Chapter 160 of the General Statutes.

Sec. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 7. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1969.