

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 643
HOUSE BILL 712

AN ACT TO PROVIDE FOR THE CONSOLIDATED GOVERNMENT OF
WILMINGTON/NEW HANOVER COUNTY, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Wilmington/New Hanover County Consolidated Government is enacted to read:

"CHARTER - THE WILMINGTON/NEW HANOVER COUNTY
CONSOLIDATED GOVERNMENT.

"CHAPTER 1. GENERAL PROVISIONS.

"ARTICLE 1. ESTABLISHMENT.

"Sections 1-1. Consolidated Government Established. (a) The powers, duties, rights, privileges and immunities of the City of Wilmington and the County of New Hanover are consolidated into one Wilmington/New Hanover Consolidated Government, herein called the Government.

(b) The Government is the legal successor to the separate governments of the City of Wilmington and the County of New Hanover.

(c) New Hanover County continues as a county of the State of North Carolina.

(d) The City of Wilmington is abolished as an independent municipal corporation.

"Sec. 1-2. Boundaries. The Government has jurisdiction and extends territorially throughout the total area of New Hanover County.

Sections 1-3. - 1-5. Reserved.

"ARTICLE 2. POWERS AND DUTIES.

"Sec. 1-6. Corporate Powers. (a) The inhabitants of New Hanover County are a constituted politic and corporate body with the name of the Wilmington/New Hanover Consolidated Government and under that name shall have perpetual succession; shall have a common seal and may alter and renew it at will; may sue and be sued; may contract; may acquire and hold all property and rights of property, real and personal, that may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by the Government; and may hold, invest, sell or dispose of such property and rights of property.

(b) Except as otherwise provided in this Charter, or Chapter 160B of the General Statutes, the Consolidated City-County Act of 1973, as amended, the Government and its officers and employees may exercise and do enjoy (i) all the powers, duties, rights, privileges, and immunities that counties at or after the effective date of this Charter may exercise and do enjoy under the Constitution and general laws of the State of North

Carolina; (ii) all the powers, duties, rights, privileges, and immunities that incorporated municipalities at or after the effective date of this Charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina; and (iii) all the powers, duties, rights, privileges, and immunities that the City of Wilmington or New Hanover County at the effective date of this Charter could exercise and enjoy under special acts of the General Assembly. All these special acts applying to the City of Wilmington or New Hanover County are continued and apply to the Government except as expressly repealed by this Charter or when clearly inconsistent with the provisions of this Charter.

Except as otherwise provided in this Charter, the Government may exercise throughout its jurisdiction any power, duty, right, privilege or immunity granted to it by law.

(c) The Government shall have rights, powers, duties, privileges and authority provided by the Charter, and to exercise implied powers necessary to carry out the execution of powers granted in this Charter as fully and complete as if the implied powers were fully enumerated in this Charter and to perform acts pertaining to local affairs, property and government, which are necessary and proper in the legitimate exercise of the Government's duties and functions.

(d) The Government may exercise within the Towns of Wrightsville Beach, Carolina Beach and Kure Beach, the rights, powers, duties, privileges and authority that the County of New Hanover could exercise county-wide before the effective date of this Charter or that North Carolina counties are authorized to exercise county-wide subsequent to the effective date of this Charter. The governing board of any town that elects to continue as a separate municipality, however, may agree to the exercise of any power, duty, right, privilege or immunity of the Government within the town.

(e) In exercising and enjoying any power, duty, right, privilege or immunity, the Government shall follow the procedures, if any, set out in this Charter. If the Charter contains a procedure that does not include all acts necessary to exercise the power, duty, right, privilege or immunity, the Government shall supplement the Charter procedure by applicable procedures set out in other statutes. If no procedure is set out in the Charter, the Government shall follow the procedure set out in any general or applicable local law granting the power, duty, right, privilege or immunity; and if two or more laws, other than this Charter grant the same power, duty, right, privilege or immunity, but with different procedures, the Government may proceed under either.

(f) The procedure set out in any statute, when employed by the Government, is deemed amended to conform to the structure and administrative organization of the Government. If a statute refers to the governing body or the governing board of a county or municipality, the reference, except as otherwise provided in this Charter, means the Board of Commissioners; and a reference to a specific official means the official of the Government who most nearly performs the same duties performed by the specified official. If there is doubt as to the appropriate official, the Board of Commissioners may by resolution designate an appropriate official to act as fully as if his office were specified in the statute.

Sections 1-7. - 1-9. Reserved.

"ARTICLE 3. CONTINUING MUNICIPAL CORPORATIONS.

"**Sec. 1-10. Limitations In Powers.** No city or town may annex territory included within the boundaries of the Government unless the Board of Commissioners agrees by resolution.

"**Sec. 1-11. Consolidating A Town With The Government.** (a) At anytime after the effective date of the Government, any of the Towns of Wrightsville Beach, Carolina Beach and Kure Beach that continue as a separate municipality may be abolished and its powers, duties, rights, privileges and immunities consolidated with those of, and exercised by, the Government.

(b) Any of the towns may consolidate with the Government subject to joint approval of the governing bodies as to an orderly transfer of assets and/or liabilities after a town referendum on consolidation has been held, and a majority of those voting, vote for consolidation. The town's governing board shall cause a referendum to be held within 120 days after: (i) the board has passed an ordinance provisionally consolidating the town with the Government, or (ii) the board has been presented with a petition for consolidation signed by at least ten percent (10%) of the registered voters of the town. The town's governing board shall notify the Board of Commissioners in writing of the results of the referendum.

(c) The effective date of consolidation shall be July 1 next following the referendum.

(d) On the effective date of consolidation, the terms of office of all elected officials of the town automatically terminate and the offices are abolished.

"CHAPTER 2. FORM OF GOVERNMENT.

"ARTICLE 1. STRUCTURE.

"**Sec. 2-1. General.** (a) The Government shall be a Mayor-Board of Commissioners-Manager form of Government. Except as provided by Section 8-13 of this Charter, the Mayor and the Board of Commissioners shall be elected in odd-numbered years in non-partisan elections, using the election and runoff election method set out in G.S. 163-293. Beginning in 1991, elections shall be held on the same timetable as municipal elections generally.

(b) The Mayor shall be elected at-large by the qualified voters of the Government for a four-year term.

(c) The Board of Commissioners shall consist of eight commissioners at-large elected by the qualified voters of the Government. All representatives shall serve four-year terms.

"**Sec. 2-2. Mayor - Powers and Duties.** The Mayor is the chief executive officer of the Government. Consistent with the provisions of this charter, the Mayor shall have the powers, duties, rights, privileges and immunities granted to and conferred upon the chairman of Boards of County Commissioners and Mayors of the cities by the general laws of the State of North Carolina. The Mayor shall:

- (1) Be the official spokesperson for the Government.
- (2) Preside at meetings of the Board of Commissioners. The Mayor has the same right and responsibility to vote as a member of the Board, but may not vote to break a tie vote in which he participated.

- (3) Represent the Government in its inter-governmental relations.

"Sec. 2-3. Mayor Pro Tempore. At its organizational meeting after each election, the members of the Board of Commissioners shall elect from among their number a Mayor pro tempore, to serve at the pleasure of the Board of Commissioners. The Mayor pro tempore shall preside over meetings of the Board of Commissioners in the absence of the Mayor, but he has no right to break a tie vote in which he participated. If the Mayor is absent from the county, he may designate the Mayor pro tempore as acting Mayor during his absence; during that time, the Mayor pro tempore has all the powers, rights, duties, privileges, and immunities of the Mayor.

"Sec. 2-4. Board of Commissioners - Powers and Duties. The legislative powers of the Government are vested in the Board of Commissioners. The powers, duties and responsibilities of the Board of Commissioners shall include, but not be limited to:

- (1) Approving a system for personnel administration.
- (2) Appointing, removing or suspending from office the manager, attorney, clerk to the Board, police chief and fire chief by a two-thirds vote of the Board including the Mayor.
- (3) Performing the other duties, and responsibilities defined in this Charter.

Sections 2-5. - 2-8. Reserved.

**"ARTICLE 2. MAYOR - QUALIFICATIONS AND
CONDITIONS OF OFFICE.**

"Sec. 2-9. Eligibility for Office. To be eligible for election to Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina. The Mayor shall not hold another paid position within the Government.

"Sec. 2-10. Compensation. The initial annual salary of the Mayor shall be fourteen thousand five hundred dollars (\$14,500).

"Sec. 2-11. Vacancy or Removal. (a) The Board of Commissioners shall declare the office of Mayor to be vacant when one or more of the following conditions exists:

- (1) The Mayor ceases to be a qualified voter of the Government.
- (2) The Mayor dies, resigns, or is declared mentally incompetent by a court of competent jurisdiction.
- (3) The Mayor is removed from office under the general laws of North Carolina.

(b) A vacancy in the office of Mayor shall be filled as set forth in G.S. 160A-63; provided, however, the Mayor pro tempore shall be appointed to serve as Mayor, with all the powers and duties of the office, until a Mayor is elected and takes office.

Sections 2-12. - 2-14. Reserved.

**"ARTICLE 3. BOARD OF COMMISSIONERS - QUALIFICATIONS
AND CONDITIONS OF OFFICE.**

"Sec. 2-15. Eligibility for Office. To be a member of the Board of Commissioners, a person must be eligible for election by the people to office under the laws and Constitution of North Carolina. A member shall not hold another paid position within the Government.

"Sec. 2-16. Compensation. The initial annual salary of the Commissioners shall be nine thousand six hundred dollars (\$9,600).

"Sec. 2-17. Vacancy or Removal. (a) The Board of Commissioners shall declare the office of a Commissioner to be vacant when one or more of the following conditions exists:

- (1) A Commissioner ceases to be a qualified voter of the Government.
- (2) A Commissioner dies, resigns or is declared mentally incompetent by a court of competent jurisdiction.
- (3) The Commissioner is removed from office under the general laws of North Carolina.
- (4) The Mayor pro tempore is appointed to fill a vacancy in the office of Mayor.

(b) A vacancy in the office of Commissioner shall be filled as set forth in G.S. 160A-63.

Sections 2-18.- 2-26. Reserved.

"CHAPTER 3. ORGANIZATION AND LEGISLATION.

ARTICLE 1. CONDUCT OF PROCEEDINGS.

"Sec. 3-1. Mayor to Preside. The Mayor shall preside at all meetings of the Board of Commissioners and in the Mayor's absence, the Mayor pro tempore shall preside. The Board of Commissioners shall comply with the provisions of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. The meetings of the Board of Commissioners shall be conducted in accordance with rules of procedures adopted by the Board.

"Sec. 3-2. Meetings. (a) The Board of Commissioners shall hold an organizational meeting on the first Monday in December following a general election in which the Board of Commissioners is elected, except for the initial formation of the Government. The newly elected Mayor and members of the Board of Commissioners shall take and subscribe the oath of office required by the North Carolina Constitution. A person absent from the organizational meeting may take and subscribe the oath at a later time.

(b) Regular and special meeting of the Board of Commissioners shall be scheduled, called and held pursuant to the provisions of G.S. 153A-40.

"Sec. 3-3. Quorum and Voting. (a) A quorum shall be a majority of the membership of the Board of Commissioners including the Mayor, but excluding vacant seats. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(b) A member of the Board of Commissioners may be excused from voting only on matters involving his official conduct or his own financial interests.

(c) A failure to vote by any member of the Board of Commissioners who is physically present or who has withdrawn and has not been excused from voting, shall be recorded as an affirmative vote.

(d) The vote of each member of the Board of Commissioners on each ordinance, resolution, motion or other action shall be recorded.

Sections 3-4. - 3-6. Reserved.

"ARTICLE 2. PROCEDURE FOR EXERCISE OF LEGISLATIVE POWERS.

"**Sec. 3-7. Form of Action.** The Board of Commissioners shall take official action only by the adoption of ordinances, resolutions or motions entered in full in the minutes of the meeting.

"**Sec. 3-8. Ordinance Procedures.** (a) Official actions which are to become law shall be by ordinance.

(b) Each proposed ordinance shall be in writing, contain only one subject and be clearly titled expressing that subject.

(c) No ordinance shall be passed or adopted until it has been read at two regular meetings, not less than one week apart and approved by the affirmative vote of the majority of the members, including the Mayor. One of the meetings shall be an evening meeting. This requirement for a second reading may be waived by an affirmative unanimous vote of the members present.

(d) The Board of Commissioners may provide in its discretion that an ordinance shall become effective only upon a vote of the people. If the Board decides to require voter approval, it shall adopt a resolution at the same meeting, calling a referendum for the purpose of submitting the ordinance to a vote. Such resolution may be repealed or modified up to 60 days prior to the scheduled referendum. The referendum shall be held within 120 days after the day the ordinance is adopted. The referendum shall be conducted pursuant to the provisions of Chapter 163 of the General Statutes of North Carolina applicable to cities. An ordinance adopted by a vote of the people shall be repealed only upon the vote of the people.

"CHAPTER 4. ADMINISTRATION.

"ARTICLE 1. IMPLEMENTATION.

"**Sec. 4-1. Initial Organization.** The initial administrative organization of the Government shall be that of the merging governments on the effective date of the Government and the Government initially shall be organized into at least the departments that were in existence prior to consolidation.

"**Sec. 4-2. Reorganization.** The Board of Commissioners, except as restricted by this Charter or the general laws of the State, may organize or reorganize the administrative structure of the Government by creating, transferring, consolidating, reorganizing and abolishing offices, positions, departments, agencies, boards, commissions, and authorities of the Government.

Sections 4-3. - 4-4. Reserved.

"ARTICLE 2. APPOINTED POSITIONS.

"**Sec. 4-5. Manager.** There shall be a Government Manager appointed in accordance with Chapter 2 of this Charter. The Manager shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, and State law and shall perform other duties as directed by the Board of Commissioners.

"**Sec. 4-6. Attorney.** There shall be a Government Attorney appointed in accordance with Chapter 2 of this Charter. The Attorney shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, and State law and shall perform other duties as directed by the Board of Commissioners.

"Sec. 4-7. Clerk to the Board of Commissioners. There shall be a Clerk to the Board of Commissioners appointed in accordance with Chapter 2 of this Charter. The Clerk to the Board of Commissioners shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, and State law and shall perform other duties as directed by the Board of Commissioners.

Sections 4-8. - 4-13. Reserved.

"ARTICLE 3. SPECIAL APPOINTMENTS.

"Sec. 4-14. Police Chief. The Board of Commissioners shall appoint, suspend or remove the Chief of Police. The Chief of Police shall be the head of the Government Police Department. The Chief of Police shall:

- (1) Have law enforcement training and have held a prior position in law enforcement, including administrative duties and responsibilities to demonstrate the capability to perform the requirements of this position.
- (2) Direct and supervise department activities including administration of:
 - a. The enforcement of the criminal laws and regulations of North Carolina, and the ordinances of the Government.
 - b. Patrol and criminal investigations, including training programs and support services within the boundaries of the Government.
 - c. Other duties as required by this Charter and ordinances and as directed by the Manager and the Board of Commissioners.

"Sec. 4-15. Fire Chief. The Board of Commissioners shall appoint, remove or suspend the Fire Chief. The Fire Chief shall be the head of the Government Fire Department. The Fire Chief shall:

- (1) Have fire training and have held a prior position in fire fighting and prevention including administrative duties and responsibilities to demonstrate the capability to perform the requirements of this position.
- (2) Direct and supervise the Urban Service District Fire Department.
- (3) Perform other duties as required by this Charter and ordinances and as directed by the Manager and Board of Commissioners.

"ARTICLE 4. VOLUNTEER FIRE DEPARTMENTS.

"Sec. 4-16. Contracts With Volunteer Fire Departments. The Government may continue to contract with the Volunteer Fire Departments located in the County to provide fire protection in the areas outside the Urban Service District.

"ARTICLE 5. OTHER OFFICES.

"Sec. 4-17. Sheriff. The Sheriff shall be responsible for the performance of duties imposed upon the Sheriff of New Hanover County by the Constitution or by the general or special laws of North Carolina and shall coordinate with the Police Chief the administration of law enforcement in the consolidated Government.

"CHAPTER 5. BOARDS AND COMMISSIONS.

"ARTICLE 1. GENERAL PROVISIONS.

"Sec. 5-1. General Authority. The Government, except as limited by this Charter or general law or special act of the General Assembly, may create new committees, agencies, boards, commissions, and authorities and may abolish or modify any existing committees, agencies, boards, commissions, and authorities.

"Sec. 5-2. Statutory. Committees, agencies, boards, commissions, and authorities, however, denominated, heretofore created pursuant to authority of general law or special acts of the General Assembly, are continued.

"Sec. 5-3. Discretionary. Committees, agencies, boards, commissions, and authorities, however denominated, not specifically authorized by general law or special acts of the General Assembly, shall be abolished one year after the date the members of the initial Board of Commissioners take office unless the Board has taken prior action to extend or modify them.

Sections 5-4. - 5-6. Reserved.

"CHAPTER 6. FINANCE.

"ARTICLE 1. BUDGETING AND SERVICE DISTRICTS.

"Sec. 6-1. Application of General Law. The Government is subject to the Local Government Finance Act, Chapter 159 of the General Statutes.

"Sec. 6-2. Districts Established. The General Service District extends throughout New Hanover County. The Board of Commissioners may define, extend, consolidate and modify Urban Service Districts under procedures of general law. It is the intent of this Charter that the Board of Commissioners will define as Urban Service Districts the total area immediately before the effective date of this Charter of the City of Wilmington and the total area immediately before the effective date of this Charter of the Rural Fire District.

"Sec. 6-3. Preparation of Budget. (a) The Manager is responsible for preparing the annual budget as provided in general law, except that he shall prepare the budget in separate parts: one for the General Service District, and one for each Urban Service District.

(b) The cost of providing each service, function or activity shall be allocated (i) to the part of the budget corresponding to the district in which the service, function or activity is to be provided or (ii) in proportion to the extent to which each is to be provided in the event some service, function or activity is to be provided to a greater extent in an urban service district than county-wide.

(c) Each urban service district is responsible for the financing of its appropriate share of debt service on all bonds issued by the Government and used to finance capital facilities associated with providing or maintaining services, facilities and functions for the urban service district in addition to or to a greater extent than those provided or maintained for the entire county.

(d) Urban service district expenses shall be paid from special taxes levied within each urban service district or from other revenues allocated to each urban service district.

(e) The Board of Commissioners shall schedule and hold public hearings on the proposed budgets submitted to it. Notice of the date fixed for the beginning of such public hearings shall be published once a week for two successive calendar weeks in a newspaper having general circulation in New Hanover County. The notice shall be published the first time not less than 14 days before the date fixed for the beginning of such public hearings. This section is intended to modify G.S. 159-17.

Sections 6-4. through 6-6. Reserved.

"Sec. 6-7. General Authority to Levy Taxes and Impose Charges. The Government shall have the full power and authority to levy and collect any tax, fee or charge authorized by this Charter, local act or the general laws of the State for cities or counties, subject to any limitations imposed by this Charter or Chapter 160B of the North Carolina General Statutes, the Consolidated City-County Act of 1973, as amended.

"Sec. 6-8. Property Tax Administration. Property in New Hanover County shall be listed, appraised, and assessed and taxes on property shall be levied and collected as provided by general law for counties, except as otherwise provided in this Charter and Chapter 160B of the North Carolina General Statutes.

Sections 6-9. - 6-11. Reserved.

"Sec. 6-12. Authority to Issue Bonds. The Government may issue general obligation or revenue bonds for any purpose for which either county or municipal governments in North Carolina are authorized to issue general obligation or revenue bonds under the general laws of the State.

"CHAPTER 7. EMPLOYMENT AND BENEFITS.

"ARTICLE 1. PERSONNEL SYSTEM.

"Sec. 7-1. Authorized. The Board of Commissioners shall establish by ordinance a system of personnel administration. Except as otherwise provided by law and this Charter, the Government Manager shall appoint officers and employees not elected by the people in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Commissioners may adopt.

"Sec. 7-2. Coverage of System. The personnel system shall cover all officers and employees of the Government except:

- (1) Elected officials.
- (2) Employees of the New Hanover County Board of Education.
- (3) Employees of any agency, board, commission and authority authorized to appoint its own chief administrative officer except as otherwise provided in this Charter or general law.
- (4) Employees of the Sheriff except as provided by ordinance adopted in accordance with Article 2, and Register of Deeds where covered in personnel matters under the provisions of general law.
- (5) Employees subject to State or federal civil service regulations and procedures, to the extent that such regulations and procedures are inconsistent with the Government.

"Sec. 7-3. Pension System. A pension system shall be available to employees of the Government.

Sec. 7-4. - 7-7. Reserved.

"ARTICLE 2. CIVIL SERVICE COMMISSION.

"Sec. 7-8. Establishment. There shall be created a Civil Service Commission consisting of seven members. Each member must be a citizen and resident of the Government. No member shall be an officer or employee of the Government, or be a member of the immediate family of an employee of the Government or a former officer or employee of the Government. The Board of Commissioners by ordinance shall

prescribe the method of appointment, term of office, and procedures for filling vacancies for members of the Civil Service Commission.

"Sec. 7-9. Jurisdiction. (a) The Commission shall have jurisdiction over permanent employees of the Police Department who are clothed with the full power of arrest and have the primary duty of enforcing the criminal laws of the city and State, excluding the Chief of Police and those employees whose primary responsibility is that of issuing parking tickets or collecting fees.

(b) The Commission shall have jurisdiction over permanent employees of the Fire Department whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the Fire Department, except for the Fire Chief.

(c) The Board of Commissioners by ordinance may specify other classes of employees under the jurisdiction of the Civil Service Commission.

"Sec. 7-10. Probationary Employees. Employees of the Police and Fire Departments may be hired on a probationary basis for a period not to exceed 18 months. During this period, the Chief of the applicable department may dismiss after notifying the Government Manager. Unless dismissed prior to the end of the probationary period, an employee shall become a permanent employee with all rights and privileges contained in this Article.

"Sec. 7-11. Demotion and Dismissal of Employees. Permanent employees under the jurisdiction of the Civil Service Commission may be demoted or dismissed only for cause and with an opportunity to be heard in his or her own defense. The Board of Commissioners retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the Government. Nothing in this Article shall be so construed as to deprive the Board of Commissioners of its control over the finances of the Government.

"Sec. 7-12. Powers and Duties. (a) The Civil Service Commission shall hear and decide appeals by permanent employees under the jurisdiction of the Commission concerning demotions or dismissals from employment with the Government. The Commission shall have the right and power to compel, by subpoena, attendance, testimony of witnesses or for production of evidence and the Commission may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. Appeals shall be taken within times prescribed by the Commission by general rule by filing with the Commission a notice of appeal, specifying the grounds thereof. The Commission shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Commission may affirm the demotion or dismissal of an employee or take any other appropriate action upon finding the employee has violated a rule or regulation applicable to the employee. If the Commission determines that the employee has not violated a rule or regulation, the Commission shall reinstate the employee to his or her former position with appropriate back pay.

(b) Every decision of the Commission shall be subject to review by the Superior Court of New Hanover County by proceedings in the nature of **certiorari**. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within

10 days after the decision of the Commission is filed in the office of the Secretary of the Commission, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the Commission at the time of its hearing of the case, whichever is later. The decision of the Commission may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested. In accordance with the writ of the Court, the secretary of the Civil Service Commission shall transmit to the Superior Court a complete transcript of all papers and proceedings concerning the order or decree or action of the Civil Service Commission appealed from.

"Sec. 7-13. Other Personnel Policies. Unless specifically excepted by ordinance, all other ordinances and policies affecting the employees of the Government shall apply to employees under the jurisdiction of the Civil Service Commission.

"CHAPTER 8. CONTINUATION AND TRANSITION.

"ARTICLE 1. CONTINUATION.

"Sec. 8-1. Continuation of Ordinances and Resolutions. Ordinances and resolutions of the City of Wilmington and New Hanover County that are in force immediately before the effective date of the Government and that are not inconsistent with this Charter continue in full force and effect within the area in which they applied. They become ordinances and resolutions of the Government and shall continue in force until repealed or amended by the Board of Commissioners. Orders, rules and regulations made by any officer, agency, board, commission or authority of the City of Wilmington and New Hanover County that are in force immediately before the effective date of the Government and that are not inconsistent with this Charter also continue in force within the area in which they applied until repealed or amended by the appropriate officer, agency, board, commission or authority of the Government.

"Sec. 8-2. Continuation of Hearings and Proceedings. Petitions, hearings and other proceedings pending before any officer, office, department, agency, board, commission or authority of the City of Wilmington or New Hanover County continue and remain in full force and effect, even if the officer, office, department, agency, board, commission or authority has been abolished or consolidated by this Charter. The petition, hearing or proceeding shall be completed by the officer, office, department, agency, board, commission or authority of the Government that succeeds to the powers, duties, rights, privileges and immunities of the abolished or consolidated agency.

"Sec. 8-3. Transfer of Assets and Liabilities. On the effective date of the Government: (1) Property, real and personal and mixed, belonging to the City of Wilmington and New Hanover County vests in, belongs to and is the property of the Government.

(2) Judgments, liens, rights of liens and causes of action of any nature in favor of any of the governments listed in subdivision (1) vest in and remain and inure to the benefit of the Government.

(3) Rentals, taxes, assessments and any other funds, charges or fees owing to any of the governments listed in subdivision (1) are owed to and may be collected by the Government.

(4) Any action, suit, or proceeding pending against, or having been instituted by, any of the governments listed in subdivision (1) shall not be abated by this Charter or by consolidation, but shall be continued and completed in the same manner as if consolidation had not occurred. The Government shall be a party to these actions, suits and proceedings in the place and stead of the merging government and shall pay or cause to be paid any judgment rendered against that government in any of these actions, suits or proceedings. No new process need be served in any of the actions, suits or proceedings.

(5) Obligations, contracts, and agreements of the Governments listed in subdivision (1), including outstanding general obligation bonds and bond anticipation notes of the City of Wilmington, are assumed by the Government, and all these obligations, contracts, and agreements so assumed are constituted obligations, contracts, and agreements of the Government. The full faith and credit of the Government is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes assumed by the Government pursuant to this section, and all the taxable property within the Government shall be and remain subject to taxation for these payments. The Government shall comply with any outstanding covenants previously entered into by the City of Wilmington by which the City pledged revenues other than taxes to the retirement of the City's general obligation indebtedness.

"Sec. 8-4. Continuation of Officers and Employees. (a) On the effective date of the Government, officers and employees, excluding the Mayor, Council members and Board of Commissioner members, of the Governments of New Hanover County and the City of Wilmington become officers and employees of the Government.

(b) To the maximum extent possible, any necessary reductions in the total number of positions as a result of consolidation of the City and County shall be achieved through normal attrition.

(c) Former employees of the City and County, who are performing at an expected level or above, and who have five or more years of service will have continued employment with the Government. Where practical, these employees will be offered the same position or positions consistent with their qualifications. If these employees choose not to accept the position offered, they shall receive five days of severance pay for every year of service, with a maximum of 25 weeks' pay. If an employee is placed in a position with a lower salary, the salary reduction will be no more than ten percent (10%) of his or her salary prior to consolidation.

(d) Employees with less than five years' service may be terminated and given severance pay calculated in the same manner as (c) with a minimum of two weeks' pay.

(e) The employees in appointed positions of Manager, Attorney, and Clerk would continue service as consultants to aid their successors for a six-month transition period after the effective date of consolidation. Salaries for these employees would remain the same as their salaries immediately prior to the effective date. At the end of the transition period, these employees shall be compensated as provided for in (c) above.

(f) Employees of the Government who had service with either the City or County will retain vacation, sick leave, health, and retirement accrued immediately prior to the effective date.

(g) Nothing in this Charter will supersede the provisions of the Government Personnel Ordinance and Policies related to performance and disciplinary problems.

"Sec. 8-5. Continuation of Offices. Offices, departments, committees, agencies, boards, commissions and authorities, heretofore created pursuant to general law or special acts of the General Assembly, or by resolutions or ordinances of the City Council of Wilmington or New Hanover County Board of Commissioners, or by joint resolutions of these governing bodies are continued with the same duties, functions and responsibilities except as expressly provided by this Charter or other acts of the General Assembly.

"Sec. 8-6. Members, Officers and Employees of Boards and Agencies. Except as otherwise provided in this Charter, the members, officers and employees of all agencies, boards, commissions and authorities continue as members, officers and employees of those agencies, boards, commissions and authorities and shall continue to perform the duties and enjoy the powers, rights, privileges and immunities they possessed immediately prior to the effective date of the Government. Nothing in this section impairs the authority of the Government with respect to those boards, commissions, authorities and agencies or to any of their members, officers or employees.

Sections 8-7. - 8-10. Reserved.

"ARTICLE 2. TRANSITION.

"Sec. 8-11. Effective Date. The Wilmington/New Hanover County Consolidated Government shall become effective on the first Monday in June 1989, after the acceptance by the voters of the City of Wilmington and New Hanover County as certified by the Board of Elections and after election of the initial Board of Commissioners.

"Sec. 8-12. Effect on City and County Office Holders. The Mayor, members of the Wilmington City Council and members of the New Hanover County Board of Commissioners shall serve until the effective date of the Consolidated Government.

"Sec. 8-13. Initial Government Elections. Pursuant to Chapter 2 of this Charter, the initial election for Mayor and membership on the Board of Commissioners shall be held in 1988 using the election and run-off election method set out in G.S. 163-293:

(1) The initial Mayor shall be elected to a term ending the first Monday in December 1993.

(2) The initial members of the Board of Commissioners shall be elected to terms of office as follows:

a. The four At-Large Commissioners with the highest votes shall serve a term ending the first Monday in December 1993.

b. The four remaining At-Large Commissioners shall serve a term ending the first Monday in December 1991.

(3) The initial election shall be on the date of the primary as established by G.S. 163-1, and the initial runoff shall be held on the date of the second primary as provided by G.S. 163-111(e).

(4) The election timetable for filing notices of candidacy for the initial election shall be the same as for county officers.

After the initial term of office, the Mayor and members of the Board of Commissioners shall be elected to four-year terms.

"Sec. 8-14. Transition Committee. (a) There shall be a Transition Committee consisting of the initial Board of Commissioners. Any person holding another elective office is deemed to serve ex officio.

(b) The Transition Committee shall meet within 30 days after their election by the voters, upon the call of the Mayor-elect. The Mayor-elect shall serve as Chairman of the Transition Committee.

(c) The Transition Committee shall elect other necessary officers and adopt its rules and procedures and shall be provided a budget to pay for expenses incurred in planning for the new governmental structure.

(d) Each of the Governments shall participate in the funding of the activities of the Committee.

"Sec. 8-15. Initial Organizational Meeting. The Mayor-elect and the Board of Commissioners-elect shall hold an organizational meeting on the first Monday in June 1989. At that time, those persons shall take the oath of office and hold the initial organizational meeting.

"Sec. 8-16. Transition Budgets and Tax Rates. (a) From the effective date of the Government to July 1, 1989, the 1988-89 budget ordinances as adopted and amended by New Hanover County and the City of Wilmington shall be administered in accordance with their terms by the Board of Commissioners and officers of the Government. The Board of Commissioners, however, may amend the 1988-89 budget ordinances of any consolidated government as adopted by that Government in any manner or for any purpose for which the Government could have made an amendment in the absence of consolidation.

(b) The tax rates of the Government shall be adjusted to the levels of service provided.

"Sec. 8-17. Organizational Transition. The Board of Commissioners shall appoint the Manager, Attorney, Clerk to the Board, Police Chief, and Fire Chief on the effective date of the Government. Department Directors shall be appointed by the Manager.

"Sec. 8-18. No Election of County Commissioners. No election of members of the Board of Commissioners of New Hanover County shall be held in 1988. Members shall hold over as provided by Section 8-12.

"CHAPTER 9.

"CHANGES IN FORM AND STRUCTURE OF GOVERNMENT.

"Sec. 9-1. Authority to Modify. The voters of the Government may amend this Charter to modify the form and structure of the Government with respect to matters specified under G.S. 160A-101.

"Sec. 9-2. Method of Modifying. Modification of the form and structure of the Government shall be made pursuant to the procedures set forth in Part 4 of Article 5 of Chapter 160A of the General Statutes except that no modification may become effective

until approved by the voters in a referendum. This section shall not restrict the authority of the Board of Commissioners as otherwise provided in this Charter.

"CHAPTER 10. INTENT AND SEPARABILITY.

"The people residing within the area of the Government declare that by the adoption of this Charter it is their intent to consolidate the governmental and corporate functions of the City of Wilmington and the County of New Hanover so that the consolidating governments may be operated as one governmental entity in the interest of efficient, economical, responsive and responsible democratic government. This Charter shall continue in full force and effect even if any of its severable provisions not essential to this objective is held unconstitutional or void, and each provision of this Charter is severable from each other provision."

Sec. 2. This act shall not be deemed to repeal, modify, or in any manner affect any validating laws applying to the County of New Hanover or to the City of Wilmington. As used in this section, the term "validating laws" means laws ratifying, confirming, approving or validating official proceedings (including special assessment and annexation proceedings), actions (including acquisitions and disposals of property or interests therein), contracts, bonds, or obligations of any kind.

Sec. 3. No provision of this act is intended, nor shall any be construed, to affect in any way any right or interest:

(1) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act; or

(2) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinance or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 4. No law repealed, expressly or by implication, before the effective date of this act, is revived by:

(1) the repeal in this act of any act repealing that law, or

(2) any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are repealed.

Sec. 6. Sections 1 through 5 of this act shall become effective only if approved by the voters of the City of Wilmington and New Hanover County in a referendum to be held on October 6, 1987. To be approved, the act must receive the votes of a majority of the voters of the City of Wilmington and a majority of all of the voters of New Hanover County voting in the referendum. The form of the ballot shall be substantially the same form as provided in G.S. 153A-405.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1987.