

GENERAL ASSEMBLY OF NORTH CAROLINA  
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HOUSE BILL 468  
Committee Substitute Favorable 4/15/13  
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Senate State and Local Government Committee Substitute Adopted 7/2/13

Short Title: High Point Elections/Tryon Charter Amendments.

(Local)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE METHOD OF ELECTION OF THE MAYOR AND CITY COUNCIL MEMBERS OF THE CITY OF HIGH POINT TO HOLD THE ELECTIONS IN ODD-NUMBERED YEARS AND BY A NONPARTISAN PRIMARY AND ELECTION METHOD AS PROVIDED BY GENERAL LAW AND TO AMEND THE CHARTER OF THE TOWN OF TRYON.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 3.1 of the Charter of the City of High Point, being Chapter 501 of the 1979 Session Laws, as amended by Ordinance Number 86-7 under Part 4 of Article 5 of Chapter 160A of the General Statutes and Section 2(a) of S.L. 2006-171, reads as rewritten:

"Sec. 3.1. Method of election. ~~Regular~~ Beginning with the 2017 election, regular municipal elections shall be held in the City biennially in ~~even-numbered~~ odd-numbered years, and shall be conducted in accordance with State law governing municipal elections. The mayor and members of the council shall be elected by the nonpartisan ~~plurality~~ primary and election method provided for in ~~G.S. 163-292~~ G.S. 163-294."

**SECTION 2.** If the referendum provided in Section 4 is approved, and notwithstanding any other provision of law, in the 2014 election, the terms of the mayor and council members elected shall be for three years.

**SECTION 3.** Sections 1 and 2 of this act become effective only if approved by a majority of the qualified voters of the City of High Point in a referendum. The election shall be conducted by the appropriate county board(s) of elections in the November 2014 general election. The question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Beginning in the 2017 election and every two years thereafter, electing the mayor and the city council members by using the nonpartisan primary and election method pursuant to State law, and the mayor and city council members elected at the 2014 election serving a three-year term to expire in 2017."

**SECTION 4.** The Charter of the Town of Tryon, being Section 1 of Chapter 441 of the 1971 Session Laws, reads as rewritten:

"THE CHARTER OF THE TOWN OF TRYON

...

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

...



1 "Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the  
2 qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor  
3 shall be the official head of the Town government and shall preside at all meetings of the Board  
4 of Commissioners. Where there is an equal division on a question, the Mayor shall determine  
5 the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise  
6 such powers and perform such duties as are or may be conferred upon him or her by the general  
7 laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of  
8 Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he or she  
9 shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro  
10 Tempore as such shall have no fixed term of office, but shall serve in such capacity at the  
11 pleasure of the remaining members of the Board.

12 "Sec. 3.3. Terms; Qualifications; Vacancies.

13 ...

14 (b) No person shall be eligible to be a candidate or be elected as Mayor or as a member  
15 of the Board of Commissioners or to serve in such capacity, unless he or she is a resident and a  
16 qualified voter of the Town.

17 ...

#### 18 "ARTICLE IV. REGULAR ELECTION PROCEDURE

19 ...

20 "Sec. 4.3. Filing of Candidates. Each qualified person who would offer himself or herself  
21 as a candidate for the office of Mayor or Commissioner shall file with the Town Clerk a  
22 statement giving notice of his or her candidacy. Such notice shall be filed not earlier than sixty  
23 (60) days nor later than five o'clock p.m. on the third Friday preceding the election at which he  
24 or she offers his or her candidacy, shall be accompanied by payment of a filing fee of five  
25 dollars (\$5.00), shall be signed in the presence of the Town Clerk or his or her designee, and be  
26 substantially in the following form: "I, \_\_\_\_\_, do hereby give notice that I am a  
27 candidate for election to the office of (Mayor) (Commissioner), to be voted on at the election to  
28 be held on \_\_\_\_\_, and I hereby request that my name be placed on the official ballot for such office. I  
29 also certify that I am a resident and qualified voter of the Town of Tryon residing at \_\_\_\_ .  
30 Date: \_\_\_\_\_ (Signature)."

31 ...

#### 32 "ARTICLE V. TOWN MANAGER

33 "Sec. 5.1. The Board of Commissioners shall appoint a Town Manager who shall be the  
34 administrative head of the Town government responsible for the supervision and administration  
35 of all departments and ~~employees~~ employees, except the Town ~~Attorney~~ Attorney and Town  
36 Clerk. Notwithstanding G.S. 160A-148(1), the Board of Commissioners shall appoint the Town  
37 Clerk, but may grant to the Town Manager the authority to direct and supervise the Town Clerk  
38 to the extent and in the manner deemed appropriate by the Board of Commissioners. The Town  
39 Manager shall be appointed with regard to merit only, and he or she need not be a resident of  
40 the Town at the time of his or her appointment. He or she shall hold office during the pleasure  
41 of the Board of Commissioners and shall receive such compensation as it shall fix by  
42 ordinance.

43 The Town Manager so appointed shall (1) be the administrative head of the Town  
44 government; (2) see that within the Town the laws of the State and the ordinances, resolutions  
45 and regulations, of the Board of Commissioners are faithfully executed; (3) attend all meetings  
46 of the Board of Commissioners, and recommend for adoption such measures as he or she shall  
47 deem expedient; (4) make reports to the Board of Commissioners from time to time upon the  
48 affairs of the Town, and keep the Board fully advised of the Town's financial condition and its  
49 future financial needs; (5) appoint and remove all employees of the Town, except the Town  
50 Attorney and Town Clerk, and all appointments and removals of department heads made by the

1 Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and,  
2 (6) perform all other duties as may be required by the Board of Commissioners.

3 "ARTICLE VI. TOWN ATTORNEY

4 "Sec. 6.1. Appointment; Qualifications; Term; Compensation. The Board of  
5 Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to  
6 engage in the practice of law in North Carolina and who need not be a resident of the Town  
7 during his or her tenure. The Town Attorney shall serve at the pleasure of the Board and shall  
8 receive such compensation as the Board shall determine.

9 "Sec. 6.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute  
10 and defend suits for and against the Town; to advise the Mayor, Board of Commissioners,  
11 Town Manager, and other Town officials with respect to the affairs of the Town; to draw all  
12 legal documents relating to the affairs of the Town; to draw proposed ordinances when  
13 requested to do so; to inspect and pass upon all agreements, contracts, franchises and other  
14 instruments with which the Town may be concerned; and to perform such other duties as may  
15 be required of him or her by virtue of his or her position of Town Attorney.

16 "ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

17 "Sec. 7.1. Town Clerk. ~~The Town Manager~~ Notwithstanding G.S. 160A-148(1), the Board  
18 of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board  
19 of Commissioners and to maintain in a safe place all records and documents pertaining to the  
20 affairs of the Town, and to perform such other duties as may be required by law or as the ~~Town~~  
21 ~~Manager~~ Board may direct. The Board of Commissioners may grant to the Town Manager the  
22 authority to direct and supervise the Town Clerk to the extent and in the manner deemed  
23 appropriate by the Board of Commissioners.

24 "Sec. 7.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect  
25 all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of  
26 this Charter and the ordinances of the Town, and he or she shall diligently comply with and  
27 enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of  
28 taxes by municipalities.

29 ...

30 "Sec. 7.4. Consolidation of Functions. The Town Manager may, with the approval of the  
31 Board of Commissioners, consolidate any two or more of the positions of Town Clerk, Town  
32 Tax Collector, and Town Accountant, or may assign the functions of any one or more of these  
33 positions to the holder or holders of any other of these positions. The Town Manager may also,  
34 with the approval of the Board of Commissioners, himself or herself perform all or any part of  
35 the functions of any of the named offices, in lieu of appointing other persons to perform the  
36 same.

37 "ARTICLE VIII. FINANCE

38 ...

39 "Sec. 8.2. Independent Audit. As soon as practicable after the close of each fiscal year, an  
40 independent audit shall be made of all books and accounts of the Town government as provided  
41 in G.S. 159-34 by a certified public accountant or a qualified public accountant ~~registered~~  
42 certified under Chapter 93 of the General Statutes of North Carolina, who shall have no  
43 personal interest directly or indirectly in the affairs of the Town or of any of its officers. The  
44 Board of Commissioners shall select the public accountant, and the results of such audit shall  
45 be made available for inspection by any interested citizen of the Town, and may be published if  
46 so ordered by the Board of Commissioners.

47 "ARTICLE IX. ZONING

48 "The Town of Tryon Planning and Adjustment Board shall be comprised of seven members  
49 and two alternates. The Board of Commissioners shall appoint four members and one alternate  
50 who shall be residents of the Town. The Board of Commissioners of Polk County shall appoint  
51 five-three members and one alternate who shall be residents of the area outside of and within

1 one mile of the corporate limits of the Town of Tryon, ~~to serve as members of the Town~~  
 2 ~~Planning Board, and five residents of such area to serve as members of the Town Zoning Board~~  
 3 ~~of Adjustment, Tryon. Such~~ The members appointed by the Board of Commissioners of Polk  
 4 County shall have equal rights and privileges with the other members of such Boards~~the Board~~  
 5 in all matters pertaining to the planning and zoning of the territory outside of and within one  
 6 mile of the corporate limits of the Town. The concurring vote of ~~eight members~~ eighty percent  
 7 (80%) of the Zoning Board of Adjustment~~Planning and Adjustment Board~~ shall be necessary in  
 8 order to reverse any order, requirement, decision, or determination of any administrative  
 9 official with respect to the territory outside of and within one mile of the corporate limits of the  
 10 Town.

11 The Board of Commissioners may require that, prior to the beginning of any construction,  
 12 reconstruction or alteration of any building or structure located within the extraterritorial  
 13 zoning jurisdiction, a permit be obtained from the Town. The permit shall be issued if the  
 14 proposed construction, reconstruction or alteration complies with the provisions of the zoning  
 15 ordinance and map.

16 ...

17 "ARTICLE XII. WATER AND SEWER

18 "Sec. 12.1. Alternative Methods of Assessment. In addition to, and as alternatives, to the  
 19 method provided in G.S. 160-241 for assessing the costs of water and sewer lines and laterals,  
 20 the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby  
 21 authorized in its discretion to levy any such assessments according to either of the following  
 22 methods: (1) equally against each of the lots capable of being served by such line or lines, or  
 23 (2) on the basis of the footage of land upon a public street by an equal rate per foot of such  
 24 frontage.

25 In lieu of assessing the total cost of a particular project as herein provided, the governing  
 26 body may annually, between the first days of January and July of each year, determine the  
 27 average cost of installing water and sewer mains or lines and on the basis of such determination  
 28 may make assessments of such average cost during the following fiscal year beginning July 1.  
 29 The average cost of such installation shall include the cost of the particular size and material of  
 30 lines completed during the preceding calendar year. It may also include the anticipated increase  
 31 in labor and materials costs based upon the average of such increases during the preceding five  
 32 calendar years. The assessment of the average cost of such line shall not be made until after the  
 33 particular assessment project has been completed. The purpose of this Section is to distribute  
 34 more equitably the cost of the installation of water and sewer lines throughout the Town; to  
 35 permit a property owner to know in advance what the cost of installation of water and sewer  
 36 lines benefiting his or her property will be; and to permit the most expeditious assessment of  
 37 cost against property after completion of the installation of such lines. The actual cost of  
 38 acquisition of rights-of-way may also be assessed as a part of the cost of an individual project.  
 39 If the right-of-way costs have not been determined and assessed with the assessment of the  
 40 average installation costs at the time of the completion of the project, such costs may be  
 41 assessed separately when they are determined.

42 ...

43 "ARTICLE XIII. REFUSE, WEEDS, AND TRASH

44 "Sec. 13.1. Property Kept Free of Offensive Matter. It shall be the duty of every property  
 45 owner in the Town to keep his or her property free from noxious weeds, trash, and all other  
 46 forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial  
 47 to the public health or which may constitute a public nuisance.

48 ...

49 "ARTICLE XV. CLAIMS AGAINST THE TOWN

50 "Sec. 15.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against  
 51 the Town of Tryon arising in tort or in contract shall be presented to the Board of

1 Commissioners in writing, signed by the claimant, his or her attorney or agent, within ninety  
2 days after the claim or demand is due or the cause of action accrues, and no suit or action shall  
3 be brought thereon within thirty days or after the expiration of twelve months from the time  
4 said claim or demand is so presented. Unless the claim or demand is so presented within ninety  
5 days after the cause of action accrues, and unless suit is brought within twelve months  
6 thereafter, any action thereon is barred.

7 (b) No action shall be instituted against the Town on account of damages to or  
8 compensation for real property taken or used by the Town for any public purpose, or for the  
9 ejection of the Town therefrom, or to remove a cloud upon the title thereof, unless, within  
10 two years after such alleged use, the owner, his or her executor, administrator, guardian, or next  
11 friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in  
12 the notice the date that the alleged use commenced, a description of property alleged to have  
13 been used, and the amount of the damage or compensation claimed.

14 (c) Notwithstanding the provisions of subsections (a) and (b) of this Section, if a  
15 complainant suffers from physical or mental incapacity that renders it impossible for him or her  
16 to give notice, his or her action shall not be barred if notice of claim is given by him or her or  
17 on his or her behalf within six months after the termination of his or her incapacity; provided,  
18 that minority shall not of itself constitute physical or mental incapacity. If the complainant is a  
19 minor, his or her action shall not be barred if notice of claim is given on his or her behalf within  
20 three years after the happening or the infliction of the injury complained of; or, if the minor  
21 suffers from physical or mental incapacity that renders it impossible for him or her to give  
22 notice, his or her action shall not be barred if notice of claim is given on his or her behalf  
23 within six months after termination of the incapacity, or within three years after the happening  
24 or the infliction of the injury complained of, whichever is the longer period. The Town may at  
25 any time request the appointment of a next friend to represent any person having a potential  
26 claim against the Town and known to be suffering from physical or mental incapacity."

27 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
28 law.