

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

H

3

**HOUSE BILL 393
Committee Substitute Favorable 3/29/17
Senate State and Local Government Committee Substitute Adopted 6/20/17**

Short Title: Mebane Charter/Alamance-Burl BOE Exchange. (Local)

Sponsors:

Referred to:

March 20, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MEBANE
3 AND TO REPEAL PRIOR CHARTER ACTS AND TO AUTHORIZE THE
4 ALAMANCE-BURLINGTON BOARD OF EDUCATION TO DISPOSE OF CERTAIN
5 REAL PROPERTY BY PRIVATE SALE OR EXCHANGE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Charter of the City of Mebane is revised and consolidated to
8 read as follows:

9 "CHARTER OF THE CITY OF MEBANE

10 "ARTICLE I. INCORPORATION AND GENERAL POWERS

11 "Section 1.1. Incorporation and General Powers. The City of Mebane shall continue to be a
12 body politic and corporate under the name and style of the "City of Mebane" and shall continue
13 to be vested with all property and rights which now belong to the City; shall have perpetual
14 succession; may have a common seal and alter and renew the same at pleasure; may sue and be
15 sued; may contract; may acquire and hold all such property, real and personal, as may be
16 devised, bequeathed, sold, or in any manner conveyed or dedicated to it or otherwise acquired
17 by it and may, from time to time, hold or invest, sell, or dispose of the same; and shall have and
18 may exercise in conformity with the provisions of this Charter all municipal powers, functions,
19 rights, privileges, and immunities of every name and nature.

20 "Section 1.2. Enumerated Powers Not Exclusive. The enumeration of particular powers by
21 this Charter shall not be held or deemed to be exclusive but, in addition to the powers
22 enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the
23 City of Mebane shall have and may exercise all powers which are granted to cities by the
24 general laws of North Carolina and all powers which, under the Constitution of North Carolina,
25 it would be competent for this Charter specifically to enumerate.

26 "Section 1.3. Corporate Boundaries. The corporate boundaries of the City shall be those
27 existing at the time of ratification of this Charter, as set forth on the official map of the City and
28 as they may be altered from time to time in accordance with law. An official map of the City,
29 showing the current municipal boundaries, shall be maintained permanently in the Office of the
30 City Clerk and shall be available for public inspection. Upon alteration of the corporate
31 boundaries pursuant to law, the appropriate changes to the official map shall be made and
32 copies shall be filed in the Office of the Secretary of State, the County Register of Deeds, and
33 the appropriate board of elections.

34 "ARTICLE II. GOVERNING BODY



1 "Section 2.1. City Governing Body. The City Council, hereinafter referred to as the
2 "Council," and the Mayor shall be the governing body of the City.

3 "Section 2.2. Composition; Terms of Office. The City Council shall be composed of five
4 members who shall be elected by all the qualified voters of the City voting at large in the
5 manner provided for in Article III of this Charter. The members shall serve four-year staggered
6 terms as provided in Section 3.3 of this Charter or until their successors are elected and
7 qualified.

8 "Section 2.3. Mayor; Duties. The Mayor of the City shall be elected at large by and from
9 the qualified voters of the City in the manner provided in Article III of this Charter for a term
10 of four years or until a successor is elected and qualified. The Mayor shall be the official head
11 of the City government and shall preside at all meetings of the Council, shall have the right to
12 vote only when there is an equal division on any question or matter before the Council, and
13 shall exercise the powers and duties conferred by law or as directed by the Council.

14 "Section 2.4. Mayor Pro Tempore. At the organizational meeting following each municipal
15 election, the Council shall elect from among its members a Mayor Pro Tempore who shall
16 perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore
17 shall serve for a term of two years.

18 "Section 2.5. Organization of the Council. The Council shall meet at the next regularly
19 scheduled meeting following its election for the purpose of executing the oath of office and
20 electing a Mayor Pro Tempore as provided for in Section 2.4 of this Charter. The meeting shall
21 be presided over by the City Clerk, who shall certify to the incumbent Mayor the results of the
22 election and shall cause the same to be entered in the minutes of the Council. After receiving
23 the oath of office, the newly elected Mayor shall preside over the organizational meeting. The
24 organization of the Council shall take place notwithstanding the absence, death, refusal to
25 serve, failure to qualify, or nonelection of one or more members, but a quorum of the members
26 must be present. Any member entitled to make the oath provided for in this section who is not
27 present at the time fixed therefor may make the oath at any time thereafter.

28 "Section 2.6. Meetings. In accordance with general law, the Council shall have authority to
29 determine the time and place of Council meetings within or outside Alamance County; to make
30 provisions as it may deem wise relative to regular, special, emergency, adjourned, and
31 continued meetings; to adopt rules of procedure; and generally to regulate the time, place,
32 manner, and method of the exercise of its powers.

33 "Section 2.7. Quorum and General Procedures. A majority of the members of the Council
34 shall constitute a quorum. In accordance with general law, meetings of the Council shall be
35 public and the Mayor shall, if present, preside. In the absence of the Mayor, the Mayor Pro
36 Tempore shall preside, and in the absence of both, a Chair Pro Tempore shall be chosen. The
37 City Clerk shall be the ex officio clerk of the City Council and shall keep records of its
38 proceedings, but in case of the Clerk's temporary absence or a vacancy in the office, the City
39 Council may elect by ballot a temporary clerk, who shall be sworn to the faithful discharge of
40 the duties of the office and may act as Clerk of the City Council until a City Clerk is chosen
41 and qualified. On request of one member, the vote shall be by yeas and nays and shall be
42 entered upon the records.

43 "Section 2.8. Voting. At least three affirmative votes shall be necessary for the passage of
44 any order, ordinance, resolution, or vote. Notwithstanding the provisions of G.S. 160A-75, an
45 ordinance may be finally passed on first reading with the assent of a majority of the Council.

46 "Section 2.9. Vacancies. Vacancies that occur in any elective office of the City shall be
47 filled in accordance with the provisions of G.S. 160A-63.

48 "Section 2.10. Compensation. In accordance with G.S. 160A-64, the Council may fix its
49 own compensation and the compensation of the Mayor and any other elected officers of the
50 City.

51 "ARTICLE III. ELECTIONS

1 "Section 3.1. Regular Municipal Elections. Regular municipal elections shall be held in
2 each odd-numbered year in accordance with the uniform municipal election laws of North
3 Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using
4 the nonpartisan plurality method as provided in G.S. 163-292. Absentee voting shall be
5 permitted in municipal elections as provided in G.S. 163-302.

6 "Section 3.2. Election of Mayor. A Mayor shall be elected in the regular municipal election
7 in 2019 and every four years thereafter.

8 "Section 3.3. Election of Council. The Council members serving on the date of ratification
9 of this Charter shall serve until the expiration of their terms or until their successors are elected
10 and qualified. In the regular municipal election in 2017 and quadrennially thereafter, three
11 Council members shall be elected to serve four-year terms in those positions whose terms are
12 then expiring. In the regular municipal election in 2019 and quadrennially thereafter, two
13 Council members shall be elected to serve four-year terms in those positions whose terms are
14 then expiring.

15 "Section 3.4. Special Elections and Referenda. Special elections and referenda may be held
16 only as provided by general law or applicable local acts enacted by the General Assembly.

17 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION

18 "Section 4.1. Form of Government. The City shall operate under the council-manager form
19 of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

20 "Section 4.2. City Manager. The Council shall appoint a City Manager, who shall be the
21 administrative head of City government and shall be responsible for the administration of all
22 departments of City government. The City Manager shall be appointed with regard to executive
23 and administrative abilities only and does not have to be a resident of the City when appointed.
24 The City Manager shall hold office at the pleasure of the Council and shall receive the
25 compensation established by the Council from time to time. The City Manager shall have all
26 the powers and duties conferred by general law, except as expressly limited by the provisions
27 of this Charter, and shall have the additional powers and duties conferred by the Board as
28 authorized by general or local law.

29 "Section 4.3. City Attorney. The Council shall appoint a City Attorney to represent the
30 City, advise City officials, and perform other duties required by law or directed by the Board.

31 "Section 4.4. City Clerk. The Council shall appoint a City Clerk, who shall keep a journal
32 of the proceedings of the Board, maintain official records and documents, give notice of
33 meetings, and perform other duties required by general or local law or directed by the Council.

34 "Section 4.5. Finance Director. The Council shall appoint a Finance Director to perform the
35 duties prescribed in G.S. 159-25 and to perform other duties required by law or assigned by the
36 Council.

37 "Section 4.6. Tax Collector. The Council shall appoint a Tax Collector as provided in
38 G.S. 105-349 to collect all taxes owed to the City and to perform the duties specified in
39 G.S. 105-350 and any other duties prescribed by general or local law.

40 "Section 4.7. Other Administrative Officers and Employees. The Council may authorize
41 other positions to be filled by appointment and may organize the City government as it deems
42 appropriate, subject to the requirements of general or local law.

43 "Section 4.8. Position Classification; Employee Salary. The Council shall approve position
44 classifications and pay plans for all employees.

45 "ARTICLE V. FINANCE AND TAXATION

46 "Section 5.1. In General. The fiscal affairs of the City shall be governed by the provisions
47 of Chapter 159 of the General Statutes.

48 "ARTICLE VI. STREET AND SIDEWALK IMPROVEMENTS

49 "Section 6.1. Street Improvements; Assessment of Cost. In addition to any authority which
50 is now or may hereafter be granted by general law to the City for making street improvements,
51 the Council is hereby authorized to make street improvements and to assess the cost thereof

1 against abutting property owners in accordance with the provisions of this Article. For purpose
2 of this Article, the term "street improvement" includes grading, regrading, surfacing,
3 resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or
4 reconstruction of curb, gutters, and street drainage facilities.

5 "Section 6.2. Street Improvements; When Petition Unnecessary. The Council may order
6 street improvements and assess the cost thereof exclusive of the cost incurred at street
7 intersections against the abutting property owners at an equal rate per front foot, without the
8 necessity of a petition, upon the finding by the Council of any of the following:

- 9 (1) That the street or part thereof is unsafe for vehicular traffic and that it is in
10 the public interest to make the improvement.
- 11 (2) That it is in the public interest to connect two streets, or portions of a street,
12 already improved.
- 13 (3) That it is in the public interest to widen a street, or part thereof, which is
14 already improved, provided that assessments for widening any street or
15 portions of a street without petition shall be limited to the cost of widening
16 and otherwise improving the street in accordance with the street
17 classification and improvement standards established by the City's
18 thoroughfare or major street plan for the particular street or part thereof to be
19 widened and improved under the authority granted by this Article.

20 "Section 6.3. Sidewalks; When Assessment Unnecessary; Assessment of Cost. In addition
21 to any authority which is now or may hereafter be granted by general law to the City for
22 making sidewalk improvements, the Council is hereby authorized, without the necessity of a
23 petition, to make or to order to be made sidewalk improvements or repairs according to
24 standards and specifications of the City and to assess the total cost thereof against abutting
25 property owners, according to one or more of the assessment bases set forth in Article 10 of
26 Chapter 160A of the General Statutes. If a sidewalk is constructed on only one side of a street
27 in a residential zone, the cost thereof may be assessed against property abutting on both sides of
28 the street, unless there already exists a sidewalk on the other side of the street, the total cost of
29 which has been assessed against the abutting property.

30 "Section 6.4. Assessment Procedure. In ordering street and sidewalk improvements without
31 a petition and assessing the cost thereof under authority of this Article, the Council shall
32 comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes,
33 except those provisions relating to the petition of property owners and the sufficiency thereof.

34 "Section 6.5. Effect of Assessment. The effect of the act of levying assessments under the
35 authority of this Article shall for all purposes be the same as if the assessments were levied
36 under authority of Article 10 of Chapter 160A of the General Statutes.

37 "Section 6.6. Sidewalk Maintenance in Extraterritorial Jurisdiction. The City may maintain
38 sidewalks located in the City's extraterritorial planning jurisdiction under G.S. 160A-360.

39 "ARTICLE VII. WATER AND SEWER IMPROVEMENTS

40 "Section 7.1. Laterals Included in Cost. In ordering water or sewer line extensions, or both,
41 the assessment of the cost thereof under the authority given by general law, the Council is
42 hereby authorized to include in the extensions water and sewer line laterals and to include the
43 cost of the laterals in the total cost to be assessed upon abutting properties.

44 "Section 7.2. Classification and Exemption. Where water or sewer lines are constructed
45 across or through lots or tracts of land or when water or sewer lines, or both, are installed along
46 both sides of corner lots and are financed in whole or in part by assessment, the Council may
47 by uniform rule classify the lines for assessment as in its judgment will represent the benefits
48 derived. As provided by G.S. 160A-219, the schedules of exemptions may be classified as to
49 land uses (residential, business, commercial, industrial, office and institutional, agricultural, or
50 other classifications) and shall be uniform for each classification used. However, no schedule

1 of exemptions may provide for exemption of more than seventy-five percent (75%) of the
2 frontage of any side of a corner lot or 150 feet, whichever is greater.

3 "Section 7.3. Assessments and Connection Fees. The Council may establish and collect
4 connection fees and assessments for water and sewer extensions both within and outside the
5 corporate limits. The fees and assessments shall fund necessary improvements and maintain
6 services to inhabitants that are sufficient to address expansion and needs of the water and sewer
7 system. Assessments may be made on any of the bases authorized in G.S. 160A-218.

8 "Section 7.4. Optional Cost-Sharing. Without regard to the limitations provided in Article
9 10 of Chapter 160A of the General Statutes or in any other provision of law, the Council acting
10 for the City may assume such proportion of the total cost of local improvements, including
11 street improvements, sidewalk improvements, curb and gutter improvements, or water and
12 sewer improvements, or any one or more of them, as the Council may, from time to time, deem
13 appropriate.

14 "Section 7.5. Payment of Assessments. Any special assessment of the City for any purpose
15 amounting to less than one hundred dollars (\$100.00) shall be paid in cash not later than the
16 next due date of City taxes rather than in annual installments and shall bear interest as taxes.
17 Installment payments on special assessments shall uniformly fall due on the date that taxes are
18 due and payable.

19 "ARTICLE VIII. REGULATORY POWERS

20 "Section 8.1. Land-Use Regulation. The City possesses all of the land-use regulation
21 powers conferred on cities generally by general law.

22 "Section 8.2. Underground Utilities. In addition to the powers now or hereafter granted to
23 cities by law, the City's subdivision ordinance may require that all utility or other pipes, wiring
24 conduits, cables, and fixtures within subdivisions be installed underground, whether or not the
25 same are installed in public rights-of-way pursuant to plans or regulations approved by the
26 North Carolina Utilities Commission.

27 "Section 8.3. Annexations. Extensions of the City's corporate boundaries and filings of
28 ordinances and maps of the extensions shall be governed by general or local law or the
29 provisions of this Charter. The provisions of G.S. 160A-58.1(b)(5) shall not apply to the City.

30 "ARTICLE IX. CLAIMS AGAINST THE CITY

31 "Section 9.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against
32 the City arising in tort or in contract shall be presented to the Council in writing, signed by the
33 claimant or the claimant's attorney or agent, within 90 days after the claim or demand is due or
34 the cause of action accrues, and no suit or action shall be brought thereon within 30 days or
35 after the expiration of 12 months from the time said claim or demand is so presented. Unless
36 the claim or demand is so presented within 90 days after the cause of action accrues and unless
37 suit is brought within 12 months thereafter, any action thereon is barred.

38 (b) No action shall be instituted against the City on account of damages to or
39 compensation for real property taken or used by the City for any public purpose, or for the
40 ejection of the City therefrom, or to remove a cloud upon the title thereof unless, within two
41 years after the alleged use, the owner, the owner's executor, administrator, guardian, or next
42 friend shall have given notice in writing to the Council of the claim, stating in the notice the
43 date that the alleged use commenced, a description of property alleged to have been used, and
44 the amount of damage or compensation claimed.

45 "Section 9.2. Settlement of Claims by City Manager. The Council may, by ordinance,
46 authorize the City Manager to settle claims against the City."

47 **SECTION 2.** The purpose of this act is to revise the Charter of the City of Mebane
48 and to consolidate certain acts concerning the property, affairs, and government of the City. It
49 is intended to continue without interruption those provisions of prior acts that are expressly
50 consolidated into this act, so that all rights and liabilities which have accrued are preserved and
51 may be enforced.

1 **SECTION 3.** This act does not repeal or affect any acts concerning the property,
2 affairs, or government of public schools or any acts validating official actions, proceedings,
3 contracts, or obligations of any kind.

4 **SECTION 4.** Section 1 of Chapter 514 of the 1973 Session Laws and S.L.
5 2006-10, having served the purposes for which they were enacted or having been consolidated
6 into this act, are expressly repealed.

7 **SECTION 5.** The Mayor and Council members serving on the date of ratification
8 of this act shall serve until the expiration of their terms or until their successors are elected and
9 qualified. Thereafter, those offices shall be filled as provided in Articles II and III of the
10 Charter of the City of Mebane, as enacted in Section 1 of this act.

11 **SECTION 6.** This act does not affect any rights or interests that arose under any
12 provisions repealed by this act.

13 **SECTION 7.** All existing ordinances, resolutions, and other provisions of the City
14 of Mebane not inconsistent with the provisions of this act shall continue in effect until repealed
15 or amended.

16 **SECTION 8.** No action or proceeding pending on the effective date of this act by
17 or against the City of Mebane or any of its departments or agencies shall be abated or otherwise
18 affected by this act.

19 **SECTION 9.** If any provision of this act or application thereof is held invalid, such
20 invalidity shall not affect other provisions or applications of this act that can be given effect
21 without the invalid provision or application, and, to this end, the provisions of this act are
22 declared to be severable.

23 **SECTION 10.** Whenever a reference is made in this act to a particular provision of
24 the General Statutes, and that provision is later amended, superseded, or recodified, the
25 reference shall be deemed amended to refer to the amended General Statute or to the General
26 Statute that most clearly corresponds to the statutory provision which is superseded or
27 recodified.

28 **SECTION 11.(a)** The Alamance-Burlington Board of Education may, subject to
29 the requirements set forth in subsection (b) of this section, convey, sell, or transfer any or all of
30 its right, title, and interest in the property described in subsection (c) of this section pursuant to
31 an agreement entered into through private negotiation and sale, which agreement may provide
32 for an exchange for other property, or payment of monetary consideration, or both. Notwithstanding G.S. 115C-518(a), G.S.115C-521, Article 12 of Chapter 160A of the General
33 Statutes, Article 8 of Chapter 143 of the General Statutes, or any other statute or law of the
34 State, and, without limiting the foregoing, the agreement may provide that the
35 Alamance-Burlington Board of Education will exchange the property described in subsection
36 (c) of this section for a new school to be constructed by the other party to the agreement on
37 property acceptable to the Alamance-Burlington Board of Education. Any such agreement
38 entered into by the Alamance-Burlington Board of Education shall be approved as provided in
39 subsection (b) of this section and shall provide for the payment or transfer of a full and fair
40 consideration to the Alamance-Burlington Board of Education.

41 **SECTION 11.(b)** The agreement permitted pursuant to subsection (a) of this
42 section shall be entered into pursuant to a single resolution authorizing the execution and
43 performance of the agreement adopted by the Alamance-Burlington Board of Education at a
44 regular meeting of the Board of Education upon 10 days' public notice. Notice shall be given by
45 publication describing the property to be conveyed by the Board of Education, stating the
46 consideration to be paid or transferred to the Board of Education pursuant to the agreement,
47 including the value of any properties to be conveyed to the Board of Education pursuant to the
48 agreement, and announcing the Board of Education's intent to authorize the agreement at its
49 next regular meeting.
50

1 **SECTION 11.(c)** That parcel or tract of land having an address of 510 E. Haggard
2 Avenue in the Town of Elon, Alamance County, containing approximately 18.35 acres which
3 bears Alamance County Parcel Identification number 115440 and GPIN 8855275305 and on
4 which is located the elementary school known as "Elon Elementary" and which property
5 includes, but is not limited to, the properties described in the deeds recorded in Book 233, Page
6 301, Alamance County Registry; Book 239, Page 79, Alamance County Registry; Book 239,
7 Page 78, Alamance County Registry; and Book 234, Page 297, Alamance County Registry.

8 **SECTION 12.** This act is effective when it becomes law.