

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1069*
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Short Title: Greenville Utilities Commission.

(Local)

Sponsors: Senators Warren and Martin of Pitt.

Referred to: Public Utilities.

June 2, 1992

A BILL TO BE ENTITLED

AN ACT TO AMEND AND RESTATE THE CHARTER OF THE GREENVILLE UTILITIES COMMISSION OF THE CITY OF GREENVILLE.

The General Assembly of North Carolina enacts:

Section 1. For the proper management of the public utilities of the City of Greenville, both within the corporate limits of the City and outside the said corporate limits, a commission to be designated and known as the "Greenville Utilities Commission", is hereby created and established.

Sec. 2. The Greenville Utilities Commission shall consist of eight members, six of whom shall be bona fide residents of the City of whom one shall at all times be the City Manager of Greenville, and two of whom shall be bona fide residents of Pitt County but residing outside the city limits of Greenville, and all of whom shall be customers of the Greenville Utilities Commission. Each Greenville Utilities Commissioner shall hold office for an initial term of three years and, except as set forth herein, will be automatically reappointed to a single additional term of three years, with each term of three years expiring June 30 at the end of the designated term or until reappointed or replaced by the City Council. The first appointees shall hold their offices as follows: the Greenville City Council shall appoint an individual to serve until June 30, 1995; John W. Hughes, Sr. is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1995, and shall not be eligible for a second term; Bernard E. Kane is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1995; R. Richard Miller is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1994, and shall not be eligible for a second term;

1 and the Greenville City Council shall appoint an individual to serve until June 30, 1993;
2 all of whom are bona fide residents of the City. William G. Blount is hereby appointed
3 a Greenville Utilities Commissioner to serve until June 30, 1993, and shall not be
4 eligible for a second term; and the Pitt County Board of Commissioners shall nominate
5 an individual under the procedure established in Section 3 of this act, to be appointed by
6 the Greenville City Council to serve until June 30, 1994; both of whom are Greenville
7 Utilities Commission customers and bona fide residents of Pitt County residing outside
8 the Greenville city limits.

9 Sec. 3. The Greenville Utilities Commissioners otherwise than as herein
10 provided shall be appointed by the City Council at their regularly monthly meeting in
11 June of each year. It is the intention of this charter that the City Council shall appoint
12 Greenville Utilities Commission members who have utilities expertise. Representation
13 should include some members with financial, engineering, environmental, technical, or
14 development backgrounds. The two members of the Greenville Utilities Commission
15 residing outside the city limits shall be nominated by the Pitt County Board of
16 Commissioners and appointed by the City Council. The City Council has the right to
17 reject any nominee(s) from the Pitt County Board of Commissioners and to request
18 additional nominees. If the Pitt County Board of Commissioners fails to recommend a
19 nominee to the City Council within 60 days of the original date requested by the City
20 Council, then the City Council may appoint any individual meeting the residency
21 requirement. No person shall be eligible for appointment to the Greenville Utilities
22 Commission who is an officer or employee of the City or Pitt County except that the
23 City Manager of the City of Greenville shall at all times be a full member of the
24 Greenville Utilities Commission. In the event a Greenville Utilities Commissioner
25 resigns, dies, or otherwise becomes incapable of performing his or her duties, the City
26 Council shall appoint, according to the same process described herein for regular
27 appointments, a Greenville Utilities Commissioner to fill the unexpired term at any
28 regular or special meeting of the City Council. Any Greenville Utilities Commissioner
29 filling an unexpired term shall be deemed to have filled said term for the full three-year
30 term. Except as otherwise permitted herein, no Greenville Utilities Commissioner shall
31 serve more than two three-year terms. Greenville Utilities Commissioners filling the
32 first three-year term will automatically fill a second three-year term unless the City
33 Council initiates the replacement process.

34 Sec. 4. The Greenville Utilities Commissioners shall organize by electing
35 one of their members Chair, whose term of office as Chair shall be for one year unless
36 the Chair's term on the Greenville Utilities Commission shall expire earlier, in which
37 event his or her term as Chair shall expire with the Chair's term on the Greenville
38 Utilities Commission. The Chair shall not be entitled to vote on any proposition before
39 the Greenville Utilities Commission except in case of a tie vote and only for the purpose
40 of breaking the tie. The members of the Greenville Utilities Commission are authorized
41 to fix their own salaries provided, however, that said salaries shall not exceed one
42 hundred fifty dollars (\$150.00) per month for the members and two hundred fifty dollars
43 (\$250.00) per month for the Chair provided, however, the City Council may, at its own
44 discretion, increase these caps from time to time as is appropriate to reflect inflation,

1 and provided, however, the City Manager shall receive no pay as a member of the
2 Greenville Utilities Commission other than his or her salary as City Manager. The
3 Greenville utilities Commission shall meet at least once each month at a designated time
4 and place unless the Chair designates some other meeting time and so notifies the other
5 members of the Greenville Utilities Commission. The Greenville Utilities Commission
6 and the Greenville City Council shall meet at least once each year to discuss mutual
7 interests of the City of Greenville and the Greenville Utilities Commission. Minutes
8 shall be kept for all regular meetings of the Greenville Utilities Commission.

9 Sec. 5. The Greenville Utilities Commission shall have entire supervision
10 and control of the management, operation, maintenance, improvement, and extension of
11 the public utilities of the City, which public utilities shall include electric, natural gas,
12 water, and sewer services, and shall fix uniform rates for all services rendered;
13 provided, however, that any person affected by said rates may appeal from the decision
14 of the Greenville Utilities Commission as to rates to the City Council. With approval by
15 the City Council, the Greenville Utilities Commission may undertake any additional
16 public enterprise service which may lawfully be operated by a municipality.

17 Sec. 6. The Greenville Utilities Commission shall employ a competent and
18 qualified General Manager whose duties shall be to supervise and manage the said
19 public utilities, subject to the approval of the Greenville Utilities Commission. The
20 General Manager, under the direction of and subject to the approval of the Greenville
21 Utilities Commission, shall cause the said utilities to be orderly and properly conducted;
22 the General Manager shall provide for the operation, maintenance, and improvement of
23 utilities; the General Manager shall provide for the extension of all utilities, except
24 sewer extensions made beyond the area regulated by the City of Greenville are subject
25 to the approval of the City Council, and shall furnish, on application, proper connections
26 and service to all citizens and inhabitants who make proper application for the same,
27 and shall in all respects provide adequate service for the said utilities to the customers
28 thereof; the General Manager shall attend to all complaints as to defective service and
29 shall cause the same to be remedied, and otherwise manage and control said utilities for
30 the best interests of the City of Greenville and the customers receiving service, and shall
31 provide for the prompt collection of all rentals and charges for service to customers and
32 shall promptly and faithfully cause said rentals and charges to be collected and received,
33 all under such rules and regulations as the Greenville Utilities Commission shall, from
34 time to time, adopt and in accordance with the ordinances of the City of Greenville in
35 such case made and provided.

36 Sec. 7. All monies accruing from the charges or rentals of said utilities shall
37 be deposited into the appropriate enterprise fund of the Greenville Utilities Commission
38 and the Greenville Utilities Commission's Director of Finance shall keep an account of
39 the same. The Greenville Utilities Commission shall at the end of each month make a
40 report to the City Council of its receipts and disbursements; the Greenville Utilities
41 Commission shall pay out of its receipts the cost and expense incurred in managing,
42 operating, improving, maintaining, extending, and planning for future improvements
43 and expansions of said utilities; provided, however, that should the funds arising from
44 the charges and rentals of said utilities be insufficient at any time to pay the necessary

1 expenses for managing, operating, improving, and extending said utilities, then and in
2 that event only, the City Council of the City of Greenville shall provide and pay into the
3 appropriate enterprise fund of the Greenville Utilities Commission a sum sufficient,
4 when added to the funds that have accrued from the rents and charges, to pay the costs
5 and expenses of managing, operating, improving, maintaining, extending, and planning
6 for future improvements and expansions of said utilities; the Greenville Utilities
7 Commission shall pay the principal on all such funds provided by the City Council with
8 interest thereon; provided, further, that the Greenville Utilities Commission shall
9 annually transfer to the City, unless reduced by the City Council, an amount equal to six
10 percent (6%) of the difference between the electric and natural gas system's net fixed
11 assets and total bonded indebtedness plus annually transfer an amount equal to fifty
12 percent (50%) of the Greenville Utilities Commission's retail cost of service for the City
13 of Greenville's public lighting. Public lighting is defined herein to mean City of
14 Greenville street lights and City of Greenville Parks and Recreation Department
15 recreational outdoor lighting. The preparation of a joint financial audit of the City of
16 Greenville and the Greenville Utilities Commission operations by a single auditing firm
17 is intended under the provisions of this charter and existing North Carolina statutes.

18 Sec. 8. In compliance with the time requirements of Chapter 159 of the
19 General Statutes, the Greenville Utilities Commission shall prepare and submit to the
20 City Council, for approval, a budget for the coming year showing its estimated revenue,
21 expenses, capital expenditures, debt service, and turnover to the City of Greenville. In
22 addition, the budget ordinance must identify construction projects of the Greenville
23 Utilities Commission which include individual contracts in excess of one-half of one
24 percent ($\frac{1}{2}\%$) of the Greenville Utilities Commission's annual budget. City Council
25 approval of the Greenville Utilities Commission's budget will constitute approval of
26 projects so identified and the contracts contained therein. Contracts in excess of one-
27 half of one percent ($\frac{1}{2}\%$) of the Greenville Utilities Commission's annual budget not so
28 identified and approved in the budget ordinance will require separate City Council
29 approval.

30 Sec. 9. The Greenville Utilities Commission shall approve the employment
31 and remuneration of all officers, agents, independent contractors, and employees
32 necessary and requisite to manage, operate, maintain, improve, and extend the service of
33 said utilities. It is, however, the intention of this Charter that the Greenville Utilities
34 Commission and the City of Greenville will implement and maintain mutual pay plans,
35 personnel policies, and benefits for their respective employees. The Greenville Utilities
36 Commission may require bond in such sum as it may deem necessary, which shall be
37 approved by the City Council, of all officers, agents, and employees having authority to
38 receive money for the Greenville Utilities Commission. The Greenville Utilities
39 Commission shall have the authority to name and designate a person in its employ as
40 secretary of the Greenville Utilities Commission.

41 Sec. 10. The Greenville Utilities Commission shall have authority at all times
42 to discharge and remove any officer, agent, independent contractor, or employee of the
43 Greenville Utilities Commission.

1 Sec. 11. All laws and clauses of laws in conflict with this act are hereby
2 repealed, expressly including Chapter 146 of the Public-Local Laws of 1941, entitled
3 "AN ACT TO PROVIDE A PERMANENT UTILITIES COMMISSION FOR THE
4 CITY OF GREENVILLE, IN PITT COUNTY, AND TO REPEAL CHAPTER TWO
5 HUNDRED AND ELEVEN OF THE PRIVATE LAWS OF ONE THOUSAND NINE
6 HUNDRED AND FIVE, AND AMENDMENTS THERETO, RELATING TO THE
7 WATER AND LIGHT COMMISSION OF THE CITY OF GREENVILLE.", except
8 that this act does not revive any act repealed by that act.

9 The purpose of this act is to revise the charter of the Greenville Utilities
10 Commission and to consolidate herein certain acts concerning the Greenville Utilities
11 Commission. It is intended to continue without interruption those provisions of prior
12 acts which are consolidated into this act so that all rights and liabilities that have
13 accrued are preserved and may be enforced. This act shall not be deemed to repeal,
14 modify, or in any manner affect any act validating, confirming, approving, or legalizing
15 official proceedings, actions, contracts, or obligations of any kind.

16 No provision of this act is intended nor shall be construed to affect in any
17 way any rights or interest, whether public or private:

- 18 (1) Now vested or accrued in whole or in part, the validity of which might
19 be sustained or preserved by reference to law to any provisions of law
20 repealed by this act.
- 21 (2) Derived from or which might be sustained or preserved in reliance
22 upon action heretofore taken pursuant to or within the scope of any
23 provisions of law repealed by this act.

24 All existing ordinances of the City of Greenville and all existing rules and
25 regulations of the Greenville Utilities Commission not inconsistent with provisions of
26 this act shall continue in full force and effect until repealed, modified, or amended.

27 No action or proceeding of any nature, whether civil or criminal, judicial or
28 administrative, or otherwise pending at the effective date of this act by or against the
29 City of Greenville or the Greenville Utilities Commission shall be abated or otherwise
30 affected by the adoption of this act. If any provisions of this act or the application
31 thereof to any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of this act which can be given effect without the invalid
33 provision or application, and to this end the provisions of this act are declared to be
34 severable.

35 Sec. 12. This act is effective upon ratification.