

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1395

Short Title: River Bend Elections.

(Local)

Sponsors: Representative Nichols.

Referred to: Local and Regional Government I.

May 30, 1996

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW FOR INITIATIVE, REFERENDUM, AND RECALL IN THE
2 TOWN OF RIVER BEND.
3

4 The General Assembly of North Carolina enacts:

5 Section 1. The Charter of the Town of River Bend, as approved by the
6 Municipal Board of Control and filed with the Secretary of State on January 14, 1981, is
7 amended by adding a new section to read:

8 "Sec. VII. **Recall.** The Mayor and members of the Town Council are subject to
9 removal pursuant to this section. An officer is removed upon the filing of a sufficient
10 recall petition and the affirmative vote of a majority of those voting on the question of
11 removal at a recall election.

12 A recall petition shall be filed with the Town Clerk, who shall immediately forward
13 the petition to the board of elections that conducts elections for the Town of River Bend.
14 A petition to recall the Mayor or a member of the Town Council shall bear the signatures
15 equal in number to at least twenty-five percent (25%) of the registered voters of the Town
16 of River Bend.

17 The board of elections shall verify the petition signatures. If a sufficient recall
18 petition is submitted, the board of elections shall certify its sufficiency to the governing
19 body, and the governing body shall adopt a resolution calling for a recall election to be
20 held not less than 60 days nor more than 100 days after the petition has been certified to

1 the governing body. The election may be held by itself or at the same time as any other
2 general or special election within the period established in this section, and shall be held
3 as otherwise provided in G.S. 163-287. The board of elections shall conduct the recall
4 election. The proposition submitted to the voters shall be substantially in the following
5 form:

6 **'[] FOR [] AGAINST**
7 **THE RECALL OF [NAME OF OFFICER]'**

8 The registered voters of the Town of River Bend are eligible to vote in an election to
9 recall the Mayor or a member of the Town Council.

10 If less than a majority of the votes cast on the question are for the officer's recall, the
11 officer continues in office. If a majority of the votes cast on the question are for the
12 officer's recall, the officer is removed on the date the board of elections certifies the
13 results of the election. A vacancy created by removal of a member of the Town Council
14 or the Mayor shall be filled in accordance with the provisions of G.S. 160A-63.

15 No petition to recall an officer may be filed within six months after the officer's
16 election to the governing body nor within six months before the expiration of the officer's
17 term. No more than one election may be held to recall an officer within a single term of
18 office of that officer."

19 Sec. 2. The Charter of the Town of River Bend, as approved by the Municipal
20 Board of Control and filed with the Secretary of State on January 14, 1981, is amended
21 by adding a new section to read:

22 "Sec. VIII. Initiative and Referendum.

23 (a) Initiative power. The qualified voters of the Town of River Bend have the
24 power under this section to propose any ordinance to the Town Council which the Town
25 Council has the power to adopt under this Charter or general law, except a budget
26 ordinance, a bond order, a franchise ordinance, or an amendment to the Charter to change
27 the Town's form of government to one of the alternatives set forth in G.S. 160A-101.

28 The initiative process may be used to repeal any ordinance that could be proposed
29 under the initiative process except that it may not be used to repeal any ordinance
30 affirmed by a referendum election within one year after the referendum vote. If the
31 governing body fails to adopt the ordinance without substantive change, the voters have
32 the power to approve or reject the proposed ordinance.

33 These powers comprise the initiative power.

34 (b) Referendum power. The qualified voters of the Town of River Bend have the
35 power to require reconsideration by the governing body of any adopted ordinance, except
36 a budget ordinance, a bond order, a franchise ordinance, or any ordinance that by law
37 may not be adopted without prior public notice and a public hearing. If the governing
38 body fails to repeal an ordinance which it has been required to reconsider, the voters shall
39 have the power to approve or reject the referred ordinance at the polls.

40 These powers comprise the referendum power.

41 (c) Commencement of proceedings. Five or more registered voters of the Town of
42 River Bend may commence an initiative or referendum petition by filing with the Town

1 of River Bend Clerk an affidavit stating that they will constitute the petitioners'
2 committee and will be responsible for circulating the petition and filing it in proper form.

3 (d) Signatures. An initiative or referendum petition shall bear the signatures equal
4 in number to at least fifteen percent (15%) of the registered voters of the Town of River
5 Bend.

6 (e) Form and content. Within 90 days of the effective date of this section, the
7 governing body shall by ordinance specify the form and content of a petition and
8 procedures for initiative and referendum elections, consistent with the provisions of this
9 Charter and consistent with generally recognized form and content requirements and
10 procedures for initiative and referendum petitions and elections.

11 (f) Time for filing. An initiative petition may be filed at any time. A referendum
12 petition must be filed within 30 days after adoption by the governing body of the
13 ordinance sought to be reconsidered.

14 (g) Certification. The petition shall be filed with the Town Clerk and signatures
15 shall be verified by the board of elections conducting elections for the Town. The
16 governing body shall by ordinance adopt reasonable, generally recognized procedures for
17 certifying the sufficiency of a petition. The governing body shall provide in the
18 ordinance reasonable time limits for completing the certification of sufficiency of the
19 petition.

20 (h) Suspension of effectiveness of referred ordinance. When, within the time
21 allowed, a referendum petition is filed with the Town Clerk, the effectiveness of the
22 ordinance sought to be reconsidered is suspended. The suspension of the effectiveness of
23 the ordinance shall terminate when:

24 (1) There is a final determination that the petition is insufficient;

25 (2) The petitioners' committee withdraws the petition as set forth in
26 subsection (k) of this section; or

27 (3) The Board of Elections certifies that the repeal of the ordinance has
28 been rejected in an election.

29 (i) Consideration. When an initiative or referendum petition has been finally
30 determined to be sufficient, the governing body shall promptly consider it.

31 (j) Submission to voters. With respect to ordinances, if the governing body fails
32 to adopt without substantive change an ordinance proposed by initiative petition or fails
33 to repeal a referred ordinance within 60 days after the date on which the petition was
34 certified as sufficient, the Town Council shall cause the proposed ordinance or the
35 referred ordinance to be submitted to the voters of the Town of River Bend. The vote on
36 the proposed ordinance or the referred ordinance shall be held within 150 days of the date
37 on which the petition was certified as sufficient.

38 (k) Withdrawal. The petitioners' committee, being those registered voters named
39 in the affidavit commencing the initiative or referendum, may withdraw the initiative or
40 referendum petition at any time prior to the fifteenth day immediately preceding the day
41 scheduled for a vote on the proposed or referred ordinance. The written request for
42 withdrawal shall be signed by at least eighty percent (80%) of the members of the
43 petitioners' committee and must be filed with the Town Clerk. The filing of the request

1 withdraws the petition. A withdrawn petition has no further effect and all proceedings
2 are terminated.

3 (l) Effective date. With respect to ordinances, if a majority of those voting in an
4 initiative election approve the proposed ordinance, it shall become an ordinance of the
5 Town of River Bend on the date the results of the election are certified or a later effective
6 date specified in the proposed ordinance, provided that the governing body may make
7 nonsubstantive changes to the ordinance that it deems necessary or desirable.

8 (m) Effect of referendum. If a majority of those voting in a referendum election
9 approve the repeal of the referred ordinance, it is repealed on the date the results of the
10 election are certified. If less than a majority of those voting in the election approve the
11 repeal of the ordinance, the ordinance is an ordinance of the Town of River Bend and
12 shall become effective on the date the results of the election are certified or a later
13 effective date specified in the referred ordinance."

14 Sec. 3. Section 1 of this act becomes effective only if approved by ordinance
15 of the Town of River Bend and approval by the qualified voters of the Town of River
16 Bend in a referendum. The question on the ballot shall be:

17 **"[] FOR [] AGAINST**
18 **AMENDING THE CHARTER OF THE TOWN OF RIVER BEND TO ALLOW**
19 **FOR RECALL ELECTIONS FOR THE MAYOR AND TOWN COUNCIL."**

20 Sec. 4. Section 2 of this act becomes effective only if approved by ordinance
21 of the Town of River Bend and approval by the qualified voters of the Town of River
22 Bend in a referendum. The question on the ballot shall be:

23 **"[] FOR [] AGAINST**
24 **AMENDING THE CHARTER OF THE TOWN OF RIVER BEND TO ALLOW**
25 **INITIATIVE AND REFERENDUM."**

26 Sec. 5. Prior to adopting any ordinance under Section 3 or 4 of this act, the
27 Town Council shall first adopt a resolution of intent to consider an ordinance amending
28 the charter. The resolution of intent shall describe the proposed charter amendments
29 briefly but completely and with reference to this act, but it need not contain the precise
30 text of the charter amendments necessary to implement the proposed changes. At the
31 same time that a resolution of intent is adopted, the council shall also call a public
32 hearing on the proposed charter amendments, the date of the hearing to be not more than
33 45 days after adoption of the resolution. A notice of the hearing shall be published at least
34 once not less than 10 days prior to the date fixed for the public hearing and shall contain a
35 summary of the proposed amendments. Following the public hearing, but not earlier than
36 the next regular meeting of the council and not later than 60 days from the date of the
37 hearing, the council may adopt an ordinance amending the charter to implement the
38 amendments proposed in the resolution of intent.

39 The council shall make any ordinance adopted pursuant to this section
40 effective only if approved by a vote of the people and may by resolution adopted at the
41 same time call a special election for the purpose of submitting the ordinance to a vote.
42 The date fixed for the special election shall be not more than 180 days after adoption of

1 the ordinance. The referendum shall be conducted in accordance with Chapter 163 of the
2 General Statutes.

3 Sec. 6. This act is effective upon ratification.