

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 179

Short Title: Form of Govt. Changes by Referendum Only. (Public)

Sponsors: Representatives Brockman, Harrison, B. Turner, and R. Johnson (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 10, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO REQUIRE THAT ALL CHANGES MADE BY THE GENERAL ASSEMBLY TO THE FORMS OF GOVERNMENT AND ELECTORAL DISTRICT BOUNDARIES FOR COUNTIES, CITIES, AND SCHOOL BOARDS SHALL BE BY REFERENDUM ONLY, AND TO PROVIDE THAT ALL CHANGES MADE BY CITY GOVERNING BOARDS TO THE CITY'S FORM OF GOVERNMENT SHALL BE BY REFERENDUM ONLY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Article VII of the North Carolina Constitution reads as rewritten:

"Section 1. General Assembly to provide for local government.

The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

The General Assembly shall not change or alter the form, structure, or electoral district boundaries of a county governing board, city governing board, or local board of education unless the subject is submitted for the approval of the qualified voters of the geographic area affected in a referendum called for that sole purpose. The General Assembly shall prescribe by general law the procedures under which referenda shall be conducted."

SECTION 2. Article 6 of Chapter 120 of the General Statutes is amended by adding a new section to read:



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1 "§ 120-29.6. Acts to alter the governing boards of counties, cities, and local boards of
2 education.

3 All local acts by the General Assembly that change or alter the form, structure, or electoral
4 district boundaries of a county governing board, city governing board, or local board of
5 education shall be subject to a referendum and shall only become effective upon approval by a
6 vote of the people. The question of adopting the changes proposed by the General Assembly
7 shall be submitted for the approval of the qualified voters of the geographic area affected in a
8 referendum called for that sole purpose. Referenda required by this section shall comply with
9 G.S. 163-287."

10 **SECTION 3.** G.S. 160A-23.1(b) reads as rewritten:

11 "(b) In adopting any revisal under this section, if the council determines that in order for
12 the plan to conform to the Voting Rights Act of 1965, the number of district seats needs to be
13 increased or decreased, it may do so by following the procedures set forth in Part 4 of Article 5
14 of Chapter 160A of the General Statutes, ~~except that the ordinance under G.S. 160A-102 may~~
15 ~~be adopted at the same meeting as the public hearing, and any referendum on the change under~~
16 ~~G.S. 160A-103 shall not apply to the municipal election in the two years following a federal~~
17 ~~decennial census. Statutes."~~

18 **SECTION 4.** G.S. 160A-101 reads as rewritten:

19 **"§ 160A-101. Optional forms.**

20 Any city may change its name or alter its form of government by calling a referendum on
21 the question of adopting any one or combination of the options prescribed by this
22 section;section. Any change under this section shall be subject to a referendum and shall only
23 become effective upon approval by a vote of the people.

24 (1) Name of the corporation:

25 The name of the corporation may be changed to any name not
26 deceptively similar to that of another city in this State.

27 (2) Style of the corporation:

28 The city may be styled a city, town, or village.

29 (3) Style of the governing board:

30 The governing board may be styled the board of commissioners, the
31 board of aldermen, or the council.

32 (4) Terms of office of members of the council:

33 Members of the council shall serve terms of office of either two or four
34 years. All of the terms need not be of the same length, and all of the terms
35 need not expire in the same year.

36 (5) Number of members of the council:

37 The council shall consist of any number of members not less than three
38 nor more than 12.

39 (6) Mode of election of the council:

40 a. All candidates shall be nominated and elected by all the qualified
41 voters of the city.

42 b. The city shall be divided into single-member electoral districts;
43 council members shall be apportioned to the districts so that each
44 member represents the same number of persons as nearly as possible,
45 except for members apportioned to the city at large, if any; the
46 qualified voters of each district shall nominate and elect candidates
47 who reside in the district for seats apportioned to that district; and all
48 the qualified voters of the city shall nominate and elect candidates
49 apportioned to the city at large, if any.

50 c. The city shall be divided into single-member electoral districts;
51 council members shall be apportioned to the districts so that each

1 member represents the same number of persons as nearly as possible,
2 except for members apportioned to the city at large; and candidates
3 shall reside in and represent the districts according to the
4 apportionment plan adopted, but all candidates shall be nominated
5 and elected by all the qualified voters of the city.

6 d. The city shall be divided into electoral districts equal in number to
7 one half the number of council seats; the council seats shall be
8 divided equally into "ward seats" and "at-large seats," one each of
9 which shall be apportioned to each district, so that each council
10 member represents the same number of persons as nearly as possible;
11 the qualified voters of each district shall nominate and elect
12 candidates to the "ward seats"; candidates for the "at-large seats"
13 shall reside in and represent the districts according to the
14 apportionment plan adopted, but all candidates for "at-large" seats
15 shall be nominated and elected by all the qualified voters of the city.

16 e. The city shall be divided into single-member electoral districts;
17 council members shall be apportioned to the districts so that each
18 member represents the same number of persons as nearly as possible,
19 except for members apportioned to the city at large, if any; in a
20 nonpartisan primary, the qualified voters of each district shall
21 nominate two candidates who reside in the district, and the qualified
22 voters of the entire city shall nominate two candidates for each seat
23 apportioned to the city at large, if any; and all candidates shall be
24 elected by all the qualified voters of the city.

25 If either of options b, c, d or e is adopted, the council shall divide the city
26 into the requisite number of single-member electoral districts according to
27 the apportionment plan adopted, and shall cause a map of the districts so laid
28 out to be drawn up and filed as provided by G.S. 160A-22 and 160A-23. No
29 more than one half of the council may be apportioned to the city at large. ~~An~~
30 ~~initiative petition may specify the number of single member electoral~~
31 ~~districts to be laid out, but the~~The drawing of district boundaries and
32 apportionment of members to the districts shall be done in all cases by the
33 council and shall only become effective upon approval by a vote of
34 the people in a referendum.

35 (7) Elections:

- 36 a. Partisan. – Municipal primaries and elections shall be conducted on a
37 partisan basis as provided in G.S. 163-291.
38 b. Nonpartisan Plurality. – Municipal elections shall be conducted as
39 provided in G.S. 163-292.
40 c. Nonpartisan Election and Runoff Election. – Municipal elections and
41 runoff elections shall be conducted as provided in G.S. 163-293.
42 d. Nonpartisan Primary and Election. – Municipal primaries and
43 elections shall be conducted as provided in G.S. 163-294.

44 (8) Selection of mayor:

- 45 a. The mayor shall be elected by all the qualified voters of the city for a
46 term of not less than two years nor more than four years.
47 b. The mayor shall be selected by the council from among its
48 membership to serve at its pleasure.

49 Under option a, the mayor may be given the right to vote on all matters
50 before the council, or he may be limited to voting only to break a tie. Under
51 option b, the mayor has the right to vote on all matters before the council. In

1 both cases the mayor has no right to break a tie vote in which he
2 participated.

3 (9) Form of government:

4 a. The city shall operate under the mayor-council form of government
5 in accordance with Part 3 of Article 7 of this Chapter.

6 b. The city shall operate under the council-manager form of
7 government in accordance with Part 2 of Article 7 of this Chapter
8 and any charter provisions not in conflict therewith."

9 **SECTION 5.** G.S. 160A-102 reads as rewritten:

10 "**§ 160A-102. Amendment by ordinance.**

11 (a) ~~By following the procedure set out in this section, the~~ The council may amend the
12 city charter by ordinance to implement any of the optional forms set out in ~~G.S. 160A-101-~~
13 ~~G.S. 160A-101 only if the ordinance is approved by a vote of the people in a referendum.~~ The
14 council shall first adopt a resolution of intent to consider an ordinance amending the charter.
15 The resolution of intent shall describe the proposed charter amendments briefly but completely
16 and with reference to the pertinent provisions of G.S. 160A-101, but it need not contain the
17 precise text of the charter amendments necessary to implement the proposed changes. At the
18 same time that a resolution of intent is adopted, the council shall also call a public hearing on
19 the proposed charter amendments, the date of the hearing to be not more than 45 days after
20 adoption of the resolution. A notice of the hearing shall be published at least once not less than
21 10 days prior to the date fixed for the public hearing, and shall contain a summary of the
22 proposed amendments. Following the public hearing, but not earlier than the next regular
23 meeting of the council and not later than 60 days from the date of the hearing, the council may
24 adopt an ordinance amending the charter to implement the amendments proposed in the
25 resolution of intent.

26 (b) The council ~~may, but shall not be required to unless a referendum petition is~~
27 ~~received pursuant to G.S. 160A-103, shall~~ make any ordinance adopted pursuant to this section
28 effective only if approved by a vote of the people, and ~~may shall~~ by resolution adopted at the
29 same time call a special election for the purpose of submitting the ordinance to a vote. The date
30 fixed for the special election shall be the next date permitted under G.S. 163-287(a) that is more
31 than 70 days after adoption of the ordinance.

32 (c) ~~Within 10 days after an ordinance is adopted under this section, the council shall~~
33 ~~publish a notice stating that an ordinance amending the charter has been adopted and~~
34 ~~summarizing its contents and effect. If the ordinance is made effective subject to a vote of the~~
35 ~~people, the~~ The council shall publish a notice of the election in accordance with G.S. 163-287,
36 and ~~need not publish a separate notice of adoption of the ordinance.~~ G.S. 163-287.

37 ~~The council may not commence proceedings under this section between the time of the~~
38 ~~filing of a valid initiative petition pursuant to G.S. 160A-104 and the date of any election called~~
39 ~~pursuant to such petition."~~

40 **SECTION 6.** G.S. 160A-103 is repealed.

41 **SECTION 7.** G.S. 160A-104 is repealed.

42 **SECTION 8.** The amendment set out in Section 1 of this act shall be submitted to
43 the qualified voters of the State at the statewide primary election to be held on May 8, 2016,
44 which election shall be conducted under the laws then governing elections in the State. Ballots,
45 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
46 The question to be used in the voting systems and ballots shall be:

47 "[] FOR [] AGAINST

48 A Constitutional amendment requiring that all changes made by the General
49 Assembly to the forms of government and electoral district boundaries for counties, cities, and
50 school boards shall be by referendum only."

1 **SECTION 9.** If a majority of votes cast on the question are in favor of the
2 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
3 amendments to the Secretary of State. The amendment becomes effective as provided in this
4 act. The Secretary of State shall enroll the amendment so certified among the permanent
5 records of that office.

6 **SECTION 10.** Sections 2 through 7 of this act become effective only if the
7 constitutional amendment proposed in Section 1 of this act is approved by the qualified voters
8 as proposed in Sections 8 and 9 of this act.

9 **SECTION 11.** This act is effective when it becomes law.