

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 1916*

Short Title: Greensboro Recall Amendments.

(Local)

Sponsors: Senators Dorsett; Berger of Rockingham, Hagan, and Malone.

Referred to: State & Local Government.

May 22, 2008

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO CLARIFY THE INITIATIVE, REFERENDUM, AND RECALL PETITION PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 2.71 through 2.76 of the Charter of the City of Greensboro, being Chapter 1159 of the Session Laws of 1959, as amended by Chapter 55 of the Session Laws of 1963, Chapter 896 of the 1989 Session Laws, and Chapter 4 of the 1991 Session Laws, read as rewritten:

"Sec. 2.71. **Powers of Initiative, Referendum and Recall.**

(a)

- (1) The voters of the city shall have power, except as provided in paragraph (2) of this subsection, to propose ordinances to the city council. If the council rejects an ordinance proposed hereunder or passes it with amendment, the voters shall have power to approve or reject the proposed or amended ordinance at the polls. These powers comprise the initiative power.
- (2) The initiative shall not extend to the proposing of: (i) any part or all of the annual budget; (ii) or any ordinance making or repealing any appropriation of money, fixing the salaries of city officers or employees, or authorizing or repealing the levying of taxes.
- (3) Voters seeking to propose an ordinance subject to initiative shall proceed by way of initiative petition addressed to the council and containing the full text of the proposed ordinance. ~~Any initiative petition must be filed with the city clerk and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election for city council members.~~ An initiative petition must be registered with the Guilford County Board of Elections, as required by G.S. 163-218,

1 before it is circulated for signatures. The valid signatures required on
2 the petition must equal twenty-five percent (25%), in number, of the
3 number of persons voting at the last preceding citywide election for
4 City Council members occurring before the registration of the
5 initiative petition. It is not necessary that the signers of the petition
6 have voted in the last election. The Petitioner's Committee shall have
7 one year from the date of registration with the Board of Elections to
8 file the initiative petition with the City Clerk.

9 (b)

- 10 (1) The voters of the city shall have power, except as provided in
11 paragraph (2) of this subsection, to require reconsideration by the
12 council of any adopted ordinance, including any ordinance initiated
13 under subsection (a) of this Section and adopted by the council. If the
14 council fails to repeal an ordinance which it has been required to
15 reconsider, the voters shall have power to approve or reject that
16 ordinance at the polls. These powers comprise the referendum power.
- 17 (2) The referendum power shall not extend to (i) any part or all of the
18 annual budget or the property tax levied therein; (ii) to any ordinance
19 making or repealing any appropriation of money or fixing the salary of
20 any officer or employee; or (iii) to any repealing ordinance adopted by
21 the council in compliance with a referendum petition.
- 22 (3) Voters seeking a referendum on any ordinance shall proceed by way of
23 a referendum petition addressed to the council, identifying the
24 ordinance concerned and requesting that it be either amended,
25 repealed, or referred to the voters of the city. Any referendum petition
26 must be ~~filed with the city clerk~~ registered with the Guilford County
27 Board of Elections, as required by G.S. 163-218, before it is circulated
28 for signatures. Such registration must be within 30 days after adoption
29 by the council of the ordinance concerned and must be signed by
30 qualified voters of the city equal in number to at least 25% of the
31 qualified voters of the city who voted at the last preceding election for
32 city council members. The valid signatures required on the petition
33 must equal twenty-five percent (25%), in number, of the number of
34 persons voting at the last preceding citywide election for City Council
35 Members occurring before the date of adoption of the ordinance
36 referred. It is not necessary that the signers of the petition have voted
37 in the last election. The Petitioner's Committee shall have one year
38 from the date of registration with the Board of Elections to file the
39 referendum petition with the City Clerk.

40 (c)

- 41 (1) The voters of the city shall have the power, which shall be known as
42 the recall power, to remove from office any member of the ~~city council~~
43 city council, including the Mayor.

1 (2) Voters seeking the recall of any member of the council shall proceed
2 by way of a recall petition addressed to the council identifying the
3 council member concerned, requesting his/her removal from office and
4 stating the grounds alleged for his/her removal. The grounds for recall
5 must be for cause, misfeasance, malfeasance, nonfeasance, or a
6 violation of the oath of office. A recall petition must be registered with
7 the Guilford County Board of Elections before it is circulated for
8 signatures; however, no recall petition may be registered within six
9 months before a general election involving the members named in the
10 petition. With respect to the Mayor or any council member elected at
11 large, any recall petition must be filed with the city clerk within one
12 year after registration and must be signed by qualified voters of the
13 city equal in number to at least 25% of the qualified voters of the city
14 who voted at the last preceding election of city council members. the
15 valid signatures required on the petition must equal twenty-five
16 percent (25%), in number, of the number of persons voting at the last
17 preceding citywide election for Mayor or City Council members
18 occurring before the registration of the recall petition. It is not
19 necessary that the signers of the petition have voted in the last election.
20 With respect to any city council member elected from a district, any
21 recall petition must be filed with the city clerk within one year after
22 registration and must be signed by qualified voters of that council
23 member's district equal in number to at least 25% of the qualified
24 voters of such district who voted at the last preceding election for its
25 city council member. the valid signatures required on the petition must
26 equal twenty-five percent (25%), in number, of the number of persons
27 voting at the last preceding district election occurring before the
28 registration of the recall petition. It is not necessary that the signers of
29 the petition have voted in the last district election.

30 ~~(d) No initiative petition proposing an ordinance that addresses essentially the~~
31 ~~same issue as, or requiring an amendment to, an ordinance that was the subject of a~~
32 ~~referendum election may be filed within one year after the referendum election.~~

33 **"Sec. 2.72. Petitioners' Committee.**

34 In each initiative, referendum, or recall petition there shall be named a petitioners'
35 committee representing all the petitioners and composed of five members who shall be
36 qualified voters of the city and signers of the petition concerned. The petitioners'
37 committee shall be responsible for registration and circulation of the petition and for its
38 assembling and filing in proper form. The committee may also amend or withdraw its
39 petition as provided in this Article.

40 **"Sec. 2.73. Initiative, Referendum and Recall Petitions: Form and Sufficiency.**

41 (a) Initiative, referendum and recall petitions shall be governed by the rules
42 regarding form and sufficiency set out in this Section, as well as by such other rules
43 regarding form and sufficiency as the city council may impose by ordinance consistent
44 with the provisions and with the spirit and purpose of this charter.

1 (b) The signatures to a petition shall be executed in ink or indelible pencil and
2 need not all be affixed to one paper, but all papers of a petition shall be of uniform size
3 and style and shall be assembled as one instrument for filing with the city clerk. Each
4 signature shall be followed by the address of the signer. Petitions or petition papers
5 which reasonably comply with these requirements shall be accepted by the clerk without
6 delay upon presentation and their filing shall be completed by his acceptance.
7 Noncomplying petitions or papers may be rejected by the clerk until they are brought
8 into reasonable compliance.

9 (c) The clerk shall not accept any petition until it indicates (1) by name and
10 address, the five petitioners who constitute the petitioners' committee for that petition
11 and (2) the address to which all notices for the petitioners' committee are to be sent.

12 (d) Any petition shall be certified or determined insufficient which: (1) is validly
13 signed by less than the required number of qualified voters of the city, (2) proposes, or
14 requests repeal of, an ordinance not subject to the power under which the petitioners are
15 proceeding, (3) if a ~~referendum~~-petition, is not registered or filed within the time
16 allowed, or (4) if a recall petition, seeks the removal of an official not subject to recall
17 hereunder.

18 (e) No signature on a petition paper shall be counted in support of the petition
19 involved if that paper (1) being part of an initiative petition, has not contained or had
20 attached to it throughout its circulation the full text of the proposed ordinance, (2) being
21 part of a referendum petition, has not contained throughout its circulation a clear,
22 concise designation and description of the ordinance concerned, or (3) being part of a
23 recall petition has not contained or had attached to it throughout its circulation a copy of
24 the recall petition identifying the council member concerned and stating the grounds
25 alleged for his removal.

26 (f) No signature on a petition paper shall be counted in support of the petition
27 involved if that paper at the time of filing, does not have attached to it an affidavit,
28 executed by the circulator of that paper, to the effect: (1) that he personally circulated
29 the paper; (2) that each signature on the paper was affixed in his presence; (3) that he
30 believes each signature to be the genuine signature of the person whose name it purports
31 to be; (4) if an initiative petition is concerned, that the full text of the proposed measure
32 was attached to or contained in the accompanying paper throughout its circulation, and
33 that each signer of the accompanying paper had an opportunity before signing to read
34 the full text of the ordinance attached; and (5) if a referendum petition is concerned, that
35 each signer of the accompanying paper had an opportunity before signing to read the
36 designation and description of the ordinance in question; and (6) if a recall petition is
37 concerned, that a copy of the recall petition was attached to or contained in
38 accompanying paper throughout its circulation, and that each signer of the
39 accompanying paper had an opportunity before signing to read the full text.

40 (g) Upon receipt of a petition that complies with the requirements of subsections
41 (b) and (c) of this Section, the clerk shall examine the petition to determine whether, on
42 its face, it is insufficient under paragraphs (1), (2) or (3) of subsection (d). If he finds the
43 petition insufficient on its face for any of these reasons, he shall so certify to the city
44 council at the next regular council meeting occurring not sooner than five days after the

1 filing of the petition, and the determination shall be subject to review in the manner
2 provided in subsection (e) of Section 2.75. If he does not find the petition insufficient
3 for these reasons, the clerk shall determine which signatures on the petition papers may
4 be counted in support of the petition under subsections (e) and (f). He shall then clearly
5 mark the signatures that may be so counted. Within ten days after the filing of the
6 petition he shall deliver the petition papers with signatures marked to the Guilford
7 County Board of Elections for a checking of the marked signatures against the
8 registration books. The Board of Elections shall complete its check within 15 days after
9 receipt of the petition papers; except that the said board shall not be obligated to
10 conduct a check in any 30-day period immediately preceding, or in any 10-day period
11 immediately following, a county-wide or city-wide election. Upon completion of its
12 check, the board of elections shall forthwith certify to the city clerk: (1) The total
13 number of registered voters of the city or the municipal electoral district, whichever is
14 applicable, at the time of the ~~most recent~~ relevant election of members of the city
15 council; and (2) the number of voters registered in the city or in the municipal electoral
16 district, if applicable, whose signatures, marked by the clerk, appear on the petition
17 papers that the board found it necessary to examine. If it was found unnecessary to
18 check all names on the petition papers, this fact shall be indicated on the certificate. The
19 petition papers shall be returned to the city clerk by the Board of Elections together with
20 its certificate.

21 (h) A petition may be delivered to the city clerk at each 90-day interval after it is
22 registered to have the accumulated signatures verified as to validity. The clerk shall
23 determine which signatures on the petition papers may be counted in support of the
24 petition under subsections (e) and (f) of this section. The clerk shall then clearly mark
25 the signatures that may be so counted. Within five working days after the delivery of the
26 petition she/he shall deliver the petition papers with signatures marked to the Guilford
27 County Board of Elections for a checking of the marked signatures against the
28 registration books. The Board of Elections shall complete its check within 10 working
29 days after receipt of the petition papers; except that the said board shall not be obligated
30 to conduct a check in any 30-day period immediately preceding, or in any 10-day period
31 immediately following, a countywide or citywide election. Upon completion of its
32 check, the Board of Elections shall forthwith certify to the city clerk the number of
33 voters registered in the city or in the municipal electoral district, if applicable, whose
34 signatures, marked by the clerk, appear on the petition papers that the board examined.
35 The petition papers shall be returned to the city clerk by the Board of Elections together
36 with its certificate. The clerk shall then return the unfiled petition to the Petitioner's
37 Committee for further circulation within three working days. This delivery to the clerk
38 shall not be deemed as a filing unless so designated by the Petitioner's Committee. Once
39 filed, a petition may not be retrieved by the Committee but may only be supplemented
40 as provided in Section 2.75 of this Charter.

41 **"Sec. 2.74. Referendum Petitions: Suspension of Ordinance after Filing.**

42 When, within the time allowed, a referendum petition is filed with the city clerk, the
43 ordinance to which that petition is directed shall immediately be and shall remain
44 suspended from taking effect. This suspension shall terminate when, in accordance with

1 this Article: (1) a final determination is made that the petition concerned is insufficient,
2 or (2) the petitioners' committee withdraws the petition, or (3) the council reconsiders
3 the ordinance and repeals it without modification. Any action taken pursuant to the
4 respective ordinance while it was in effect shall remain valid.

5 **"Sec. 2.75. Initiative, Referendum and Recall Petitions; Procedure after Filing.**

6 (a) Within five days after the return of the petition papers by the county board of
7 elections, the city clerk shall complete a certificate as to whether the petition is
8 sufficient. If the clerk certifies a petition insufficient, his certificate shall show the
9 particulars wherein the petition is defective. As soon as he has completed his certificate,
10 the clerk shall notify the committee of petitions of the contents of the certificate. If a
11 petition is certified sufficient, the clerk shall present his certificate to the city council at
12 its next meeting and that certificate shall be a final determination as to the sufficiency of
13 the petition. If a petition certified sufficient is a recall petition, the clerk shall also give
14 written notice of the action taken to the council member whose removal is sought. If a
15 petition is certified insufficient under Section 2.73 (d) (1), a majority of the committee
16 of petitioners may elect to amend the petition; but if a majority does not so elect to
17 amend the petition, the clerk shall present his certificate to the council at its next
18 meeting and that certificate shall be a final determination as to the sufficiency of the
19 petition.

20 (b) If a majority of the committee of petitioners elects to amend the petition, then
21 within ten days after notice of the contents of the clerk's certificate, the committee may
22 file, for purposes of amendment, a supplementary petition upon additional papers. The
23 supplementary petition shall be governed by the same requirements as an original
24 petition with respect to such matters as uniformity and assembly of papers, listing of the
25 petitioners' committee, text or designation and description of measures, circulators'
26 affidavits, the writing and counting but not the number of signatures; and the clerk shall
27 proceed as in the case of an original petition. Within two days after receipt of a
28 supplementary petition complying with the requirements of subsections (b) and (c) of
29 Section 2.73, the clerk shall deliver the supplementary petition papers to the county
30 board of elections for a checking of the marked signatures against the registration
31 books. The Board of Elections shall complete its check within five days after receipt of
32 the said petition papers; except that the said board shall not be obligated to conduct a
33 check in any 30-day period immediately preceding, or in any 10-day period
34 immediately following a countywide or city-wide election. Upon completion of this
35 check, the Board of Elections shall forthwith certify to the city clerk the number of
36 voters registered in the city whose signatures, marked by the clerk, appear on the
37 supplementary petition papers that the board found it necessary to examine. If it was
38 found unnecessary to check all names on the supplementary papers, this fact shall be
39 indicated in the certificate. The supplementary petition papers shall be returned to the
40 city clerk by the Board of Elections together with the certificate.

41 (c) Within two days after the return of the supplementary petition papers by the
42 Board of Elections, the clerk shall complete a second certificate as to whether the
43 original petition, as amended by the supplementary petition is sufficient. If the clerk
44 certifies the amended petition insufficient, his second certificate shall show the

1 particulars wherein the petition is still defective. As soon as he has completed his
2 second certificate, the clerk shall notify the petitioners' committee of its contents and
3 shall present that certificate to the council at its next meeting, and that certificate shall
4 be a final determination as to the sufficiency of the petition.

5 (d) If a petition has been certified insufficient and there is no election to amend
6 it, or if an amended petition is certified insufficient, the clerk shall present his latest
7 certificate on the petition to the council at its next meeting.

8 (e) If, in any one of the ways provided in this Section, a final determination has
9 been made that a petition is insufficient, that determination shall be subject to judicial
10 review, but no further action shall be taken on the petition unless the reviewing court
11 directs otherwise. Such a final determination, even if sustained upon review, shall not
12 prejudice the filing of a new petition for the same purposes.

13 **"Sec. 2.76. Consideration by the City Council and Submission to the Voters.**

14 (a) When the city council has been presented with, or has, an initiative or
15 referendum petition which has been finally determined sufficient in accordance with the
16 preceding Sections of this Article, it shall proceed at once to hold a public hearing
17 thereon and consider that petition. If an initiative petition is concerned, the ordinance it
18 proposes shall at once be introduced and shall undergo all other procedures required for
19 ordinances of the same kind; however, not later than 30 days after the date on which the
20 petition proposing the ordinance is finally determined to be sufficient, the council shall
21 complete its consideration of the proposed ordinance and shall adopt it with or without
22 amendment or reject it. If a referendum petition is concerned, the ordinance to which
23 that petition is directed shall be reconsidered by the council and, not later than 30 days
24 after the date on which the referendum petition was finally determined sufficient, the
25 council shall repeal or sustain the ordinance.

26 (b) If the council fails to adopt, or adopts with amendment, a proposed initiative
27 ordinance, or if the council fails to repeal an ordinance reconsidered pursuant to a
28 referendum petition, it shall submit the originally proposed initiative ordinance or refer
29 the reconsidered ordinance concerned to the voters of the city.

30 (c) When the council has been presented with, or has, a recall petition which has
31 been finally determined sufficient in accordance with the preceding Sections of this
32 subchapter, it shall thereupon fix a day for holding a recall election unless, prior to
33 council consideration of the matter, the council member whose removal is sought has
34 resigned and his resignation has been accepted by the council. Any recall election for a
35 council member from an electoral district shall be held within that district only.

36 (d) An initiative election shall be held at the next regularly scheduled primary or
37 general election in Guilford County for state, county or municipal officials following 90
38 days after the petition has been finally determined to be sufficient. A referendum or
39 recall election shall be held no sooner than 90 days and no later than 120 days after the
40 petition has been finally determined to be ~~sufficient~~ sufficient, but no recall election
41 shall be held within the first six months or the last six months of the term of office of
42 the member."

1 **SECTION 2.** Article 2 of Subchapter D of Chapter II of the Charter of the
2 City of Greensboro, being Chapter 1159 of the Session Laws of 1959, is amended by
3 adding a new section to read:

4 "Sec. 2.80. **Publication of ordinances; repeal and amendment; conflicts.**

5 No initiative petition proposing an ordinance that addresses essentially the same
6 issue as, or requiring an amendment to, an ordinance that was the subject of a
7 referendum election may be filed within one year after the referendum election."

8 **SECTION 3.** This act is effective when it becomes law.