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SENATE BILL 801*

Short Title:	Morganton Charter Amendment.	(Local)

Sponsors:	Senator Daniel (Primary Sponsor).

Referred to:	State and Local Government.

May 20, 2014

1   A BILL TO BE ENTITLED
2 AN ACT AMENDING THE CHARTER OF THE CITY OF MORGANTON CONCERNING
3   THE PROCEDURE FOR REMOVING THE MAYOR AND MEMBERS OF THE CITY
4   COUNCIL FROM OFFICE AND MAKING CHANGES RELATED TO THE METHOD
5   AND TIME OF MUNICIPAL ELECTIONS.
6 The General Assembly of North Carolina enacts:
7   **SECTION 1.** Article III of the Charter of the City of Morganton, being Chapter
8 180 of the 1975 Session Laws, as amended, reads as rewritten:
9   "ARTICLE III.
10   "ELECTIONS.
11   …
12   "Sec. 3.13. Method of election. – The Mayor and members of the Council shall be elected
13 by   the   nonpartisan   ~~election   and   runoff   election~~plurality   method   as   provided   in
14 ~~G.S. 163-290(a)(4).~~G.S. 163-292.
15   "Sec. 3.14. Time of election. – Elections shall be held biennially on ~~the fourth Tuesday~~
16 ~~before the Tuesday after the first Monday in November beginning in 1975 and runoff elections,~~
17 ~~if required, shall be held on~~ Tuesday after the first Monday in November.
18   …
19   "Sec. 3.21. Officials subject to recall. – The Mayor ~~or a member~~ and members of the
20 Council shall be subject to removal pursuant to this Chapter. An official may be removed upon
21 the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on
22 the question of removal at a recall election. No ~~official may be subject~~petition to recall ~~during~~
23 ~~the first year or the last six months of his term of office.~~an official may be filed within 12
24 months after the beginning of the official's term of office or within 12 months before the
25 expiration of the official's term of office. No more than one election may be held to recall an
26 official within a single term of office of that official.
27   "Sec. 3.22. Petition; procedure. – ~~A recall petition shall be filed with the City of Morganton~~
28 ~~Board of Elections. A petition to recall the Mayor or a council member shall bear the signatures~~
29 ~~of qualified voters of the City equal in number to at least twenty-five percent (25%) of the~~
30 ~~registered voters of the City qualified to vote in the last preceding general municipal~~
31 ~~election.~~(a) Any elector of the City may make and file with the Supervisor of Elections of the
32 Board of Elections of Burke County an affidavit containing the name of the official whose
33 removal is sought and a statement of the grounds alleged for the official's removal. The cause
34 for removal must relate to the misfeasance, malfeasance, or nonfeasance of the official or for
35 personal misconduct that brings the office into disrepute.

1   (b)   The Supervisor of Elections shall thereupon deliver to the elector making the
2   affidavit copies of petition blanks for demanding the removal printed forms of which the
3   Supervisor of Elections shall keep on hand. The blanks shall be issued by the Supervisor of
4   Elections with his or her signature thereto attached and shall be dated and addressed to the
5   Board of Elections of Burke County, indicate the person to whom issued, and state the name of
6   the official whose removal is sought.
7   (c)   A recall petition to be effective must be returned and filed with the Supervisor of
8   Elections within 30 days after the filing of the elector's affidavit and to be sufficient must bear
9   the signature of registered voters of the City equal in number to twenty-five percent (25%) of
10   the registered voters of the City as shown by the registration records of the last preceding
11   general municipal election.
12   (d)   The signatures to the petition need not be on one petition paper, but each signer
13   shall add to the signature that person's residence address. One or more of the signers of the
14   petition shall make oath before an officer competent to administer oaths that the statements
15   therein made are true, as that person believes, and that each signature to the paper appended is
16   the genuine signature of the person whose name it purports to be.
17   (e)   The City of MorgantonWithin 20 days after the filing of the petition, the Board of
18   Elections shall verify the petition signatures. If a sufficient recall petition is submitted, the City
19   of Morganton Board of Elections shall certify its sufficiency to the Council, andCouncil, and
20   shall notify the official whose removal is sought of the action. If the official whose removal is
21   sought does not resign within five days after receiving notice from the Board of Elections, the
22   Council shall adopt a resolution calling for a recall election to be held not less than forty-five
23   (45) days nor more than ninety (90) days after the date the petition has been certified to the
24   Council.The election may be held alone or at the same time as any other general or special
25   election within the period. The City of Morganton Board of Elections shall conduct the recall
26   election.
27   (f)   The recall election may be held at the same time as any other general or special
28   election within the time period provided for in subsection (e) of this section, but if no other
29   election is to be held within the time period, the Council shall call a special recall election to be
30   held within the time period. However, if the provisions of general law prohibit the holding of
31   special elections during the time period provided for in subsection (e) of this section, and no
32   general or special election is otherwise scheduled during the time period, the council shall call
33   the special recall election for some date within 10 days after the last day of the period of time
34   during which special elections are prohibited by general law.
35   (g)   The recall election shall be conducted by the Board of Elections of Burke County.
36   The proposition submitted to the voters shall be substantially in the following form:
37   "[ ] FOR   [ ] AGAINST
38   The recall of [name of official]."
39   (h)   All registered voters of the City of Morganton are eligible to vote in an election to
40   recall the Mayor or a member of the City Council.
41   "Sec. 3.23. Effect of recall election. - If less than a majority of the votes cast on the question
42   at the recall election are against for the official's recall, he the official shall continue in office. If
43   a majority of the votes cast on the question at the recall election are for the recall of the official,
44   he the official is removed from office on the date the City of MorgantonBurke County Board of
45   Elections certifies the results of the recall election. A vacancy created by the removal of the
46   Mayor or a member of the Council or the Mayor shall be filled as provided in Section 2.5 or
47   Section 2.14 of this Charter. An official who was removed by the voters as the result of a recall
48   election, or who resigned after a sufficient petition for the official's recall has been submitted to
49   the Board of Elections, shall not be reelected to fill the vacancy caused by the official's removal
50   or resignation.
51   "Sec. 3.24. through 3.30. Reserved."

1 **SECTION 2.** This act is effective when it becomes law.