

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 788*

Short Title: Durham City Manager/Contract Authority. (Local)

Sponsors: Representatives Hall, Wilkins, Michaux, and Luebke (Primary Sponsors).

Referred to: Local Government I, if favorable, Judiciary II.

March 26, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO SET HEARINGS, GIVE NOTICES, ACCEPT OR REJECT OFFERS, AND TO DECLARE INTENT, AND TO FURTHER DELEGATE CONTRACTING AUTHORITY TO THE CITY MANAGER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 17 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 1249 of the 1979 Session Laws, Chapter 694 of the 1981 Session Laws, Chapter 458 of the 1983 Session Laws, Chapter 532 of the 1991 Session Laws, Chapter 617 of the 1991 Session Laws, Chapter 761 of the 1991 Session Laws, Chapter 121 of the 1993 Session Laws, and Chapter 36 of the 1999 Session Laws, reads as rewritten:

"Sec. 17. **Powers and Duties of the City Manager.** – (a) The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City under his direction and control. It shall be his duty to attend all meetings of the City Council, with the right to take part in the discussion, but without a vote. He shall be entitled to notice of all special meetings. He shall recommend to the City Council from time to time such measures as he shall deem necessary, and shall furnish the City Council with necessary information respecting any of the departments of the City under his direction and control. The City Manager shall not be personally interested in any contract in which the City is a party for supplying the City materials of any kind.

The City Manager shall have power, and it shall be his duty, to see that the laws and ordinances of the City are enforced.

He shall have power and authority to revoke licenses, pending action by the City Council.

(b) Except as otherwise provided in this Charter, the City Manager shall have power to appoint and remove all heads of departments and all subordinate officers and employees of the City. He shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions created herein, or that hereafter may be created by the City Council. He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof, he shall call the attention of the City Council and the City Attorney to the same. ~~He shall make and execute all contracts on behalf of the City in such manner as is authorized or provided by resolutions or ordinances passed by the City Council. The City Council may, on such terms as it deems proper, allow the City Manager to authorize one or more assistant city managers and deputy city managers to make and execute such~~ contracts. He shall prepare and submit to the City Council a proposed annual budget, after



1 receiving estimates made by the heads or directors of departments or by any board officer, or
2 commissioner not within a department. He shall keep the City Council at all times advised as to
3 the financial needs and condition of the City. He shall from time to time make oral and written
4 reports to the City Council of the condition and efficiency of the various departments of the
5 City government under his direction and control. The Council may in its discretion cause such
6 written reports to be published for the information of citizens. The City Manager shall perform
7 such other duties as may be prescribed by this Charter, or be required of him by ordinance or
8 resolution of the City Council.

9 (c) The City Manager shall not engage in political campaigns for elective office, nor
10 attempt to influence the result of such campaigns, except by exercising his right to vote.
11 Improper campaign activity as described herein by the City Manager shall be a cause for his
12 immediate suspension or removal from office.

13 (d) The City Council may delegate authority to the City Manager to purchase real
14 property or any interest in real property, provided:

- 15 (1) The money for the purchase of such real property or interest in real property
16 is available in the then current budget; and
- 17 (2) The City Manager, within 45 days following the purchase, shall submit to
18 the City Council a written report setting forth the names of the persons from
19 whom such property or property interest is purchased, a general description
20 of the property or interest in property acquired, the purchase price paid
21 therefor, and the intended use of the property or interest in property.

22 ~~(e) The City Council may authorize the City Manager to make, approve, award, and
23 execute any contract for the purchase of apparatus, supplies, materials, or equipment and any
24 contract for construction or repair work provided:~~

- 25 ~~(1) The amount of the contract shall not exceed one hundred thousand dollars
26 (\$100,000);~~
- 27 ~~(2) The City Manager shall, within 45 days of the award of such contract, report
28 such award to the City Council, provided however, contracts in an amount
29 less than an amount prescribed by the City Council need not be reported;~~
- 30 ~~(3) The City Manager shall comply with all applicable provisions of Article 8 of
31 Chapter 143 of the General Statutes, and of Section 84 of this Charter. The
32 City Manager may take any action that the City Council is required or
33 authorized to take under Article 8 of Chapter 143 of the General Statutes in
34 making, approving, awarding, or executing such contracts.~~

35 (f) Where any provision of this Charter or general or local law provides that the City
36 Council may call, fix, or set public hearings or cause public hearings to be called, fixed, or set;
37 give, mail, post, or publish notices or cause notices to be given, mailed, posted, or published; or
38 to accept or reject offers made to the City, the City Council may delegate to the City Manager
39 or the City Manager's designee the authority to perform any or all of these acts. Where any
40 provision of this Charter or general or local law provides that before an act described in this
41 subsection can be performed the City Council must first adopt a resolution stating the City
42 Council's intent to take the action, the City Council may delegate to the City Manager or the
43 City Manager's designee the authority to declare that a resolution of intent has been adopted,
44 and the declaration shall satisfy the requirement that the City Council adopt a resolution of
45 intent. The City Council may delegate authority to the City Manager as provided by this
46 subsection in a resolution or ordinance, which may contain any restrictions or conditions the
47 City Council deems proper.

48 (g) The City Council may, on terms it deems proper, delegate to the City Manager or
49 the City Manager's designee the authority to solicit and advertise for bids and proposals, to
50 reject bonds, bids, and proposals, to re-advertise to receive bids and proposals, to award
51 contracts, and to execute contracts. The City Council may provide that the City Manager or the

1 City Manager's designee when acting pursuant to the authority granted by this subsection is
2 authorized to take any action that the City Council is required or authorized to take under the
3 provisions of Article 8 of Chapter 143 of the General Statutes if that action is with respect to
4 advertising, making, approving, awarding, and executing contracts, including complying with
5 the procedures in G.S. 143-129(b) that apply when the lowest responsible bids are in excess of
6 the funds available for the project or purchase. The City Manager or the City Manager's
7 designee acting pursuant to the authority granted by this subsection shall comply with any
8 provisions of law that would otherwise apply to the City Council if it were taking the action.
9 The City Manager or the City Manager's designee shall make and execute any contracts
10 authorized by the provisions of this subsection in the manner authorized or provided by the
11 City Council. The authority granted by this subsection is in addition to, and not in derogation
12 of, any other authority granted by the provisions of this Charter or any other general or local
13 law."

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