

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 636
HOUSE BILL 1395

AN ACT TO ALLOW FOR INITIATIVE, REFERENDUM, AND RECALL IN THE TOWN OF RIVER BEND AND TO DELAY THE EFFECTIVE DATE OF THE LAW REQUIRING THE REGISTER OF DEEDS TO COMPLY WITH MINIMUM INDEXING STANDARDS FOR LAND RECORDS MANAGEMENT IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

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

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

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

The board of elections shall verify the petition signatures. If a sufficient recall petition is submitted, the board of elections shall certify its sufficiency to the governing body, and the governing body shall adopt a resolution calling for a recall election to be held not less than 60 days nor more than 100 days after the petition has been certified to the governing body. The election may be held by itself or at the same time as any other general or special election within the period established in this section, and shall be held as otherwise provided in G.S. 163-287. The board of elections shall conduct the recall election. The proposition submitted to the voters shall be substantially in the following form:

[] FOR [] AGAINST
The recall of [name of officer]'

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

If less than a majority of the votes cast on the question are for the officer's recall, the officer continues in office. If a majority of the votes cast on the question are for the officer's recall, the officer is removed on the date the board of elections certifies the

results of the election. A vacancy created by removal of a member of the Town Council or the Mayor shall be filled in accordance with the provisions of G.S. 160A-63.

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

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

"Sec. VIII. Initiative and Referendum.

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

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

These powers comprise the initiative power.

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

These powers comprise the referendum power.

(c) Commencement of proceedings. Five or more registered voters of the Town of River Bend may commence an initiative or referendum petition by filing with the Town of River Bend Clerk an affidavit stating that they will constitute the petitioners' committee and will be responsible for circulating the petition and filing it in proper form.

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

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

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

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

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

- (1) There is a final determination that the petition is insufficient;
- (2) The petitioners' committee withdraws the petition as set forth in subsection (k) of this section; or
- (3) The Board of Elections certifies that the repeal of the ordinance has been rejected in an election.

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

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

(k) Withdrawal. The petitioners' committee, being those registered voters named in the affidavit commencing the initiative or referendum, may withdraw the initiative or referendum petition at any time prior to the fifteenth day immediately preceding the day scheduled for a vote on the proposed or referred ordinance. The written request for withdrawal shall be signed by at least eighty percent (80%) of the members of the petitioners' committee and must be filed with the Town Clerk. The filing of the request withdraws the petition. A withdrawn petition has no further effect and all proceedings are terminated.

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

(m) Effect of referendum. If a majority of those voting in a referendum election approve the repeal of the referred ordinance, it is repealed on the date the results of the election are certified. If less than a majority of those voting in the election approve the repeal of the ordinance, the ordinance is an ordinance of the Town of River Bend and

shall become effective on the date the results of the election are certified or a later effective date specified in the referred ordinance."

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

"[] FOR [] AGAINST

Amending the Charter of the Town of River Bend to allow
for Recall Elections for the Mayor and Town Council."

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

"[] FOR [] AGAINST

Amending the Charter of the Town of River Bend to allow
Initiative and Referendum."

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

The council shall make any ordinance adopted pursuant to this section effective only if approved by a vote of the people and may by resolution adopted at the same time call a special election for the purpose of submitting the ordinance to a vote. The date fixed for the special election shall be not more than 180 days after adoption of the ordinance. The referendum shall be conducted in accordance with Chapter 163 of the General Statutes.

Sec. 6. Section 3 of Chapter 697 of the 1991 Session Laws, as amended by Section 3 of Chapter 178 of the 1993 Session Laws, reads as rewritten:

"Sec. 3. Section 2 of this act becomes effective January 1, ~~1995~~ 1999. The remainder of this act is effective upon ratification."

Sec. 7. Section 6 of this act applies only to Brunswick County.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives