

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1456*

Short Title: Greenville Utilities Commission.

(Local)

Sponsors: Representatives McLawhorn; and Rogers.

Referred to: Local and Regional Government I.

June 2, 1992

A BILL TO BE ENTITLED

AN ACT TO AMEND AND RESTATE THE CHARTER OF THE GREENVILLE UTILITIES COMMISSION OF THE CITY OF GREENVILLE.

The General Assembly of North Carolina enacts:

Section 1. For the proper management of the public utilities of the City of Greenville, both within the corporate limits of the City and outside the said corporate limits, a commission to be designated and known as the "Greenville Utilities Commission", is hereby created and established.

Sec. 2. The Greenville Utilities Commission shall consist of eight members, six of whom shall be bona fide residents of the City of whom one shall at all times be the City Manager of Greenville, and two of whom shall be bona fide residents of Pitt County but residing outside the city limits of Greenville, and all of whom shall be customers of the Greenville Utilities Commission. Each Greenville Utilities Commissioner shall hold office for an initial term of three years and, except as set forth herein, will be automatically reappointed to a single additional term of three years, with each term of three years expiring June 30 at the end of the designated term or until reappointed or replaced by the City Council. The first appointees shall hold their offices as follows: [Patrick N. Kelly's] seat is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1995; John W. Hughes, Sr. is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1995, and shall not be eligible for a second term; Bernard E. Kane is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1995; R. Richard Miller is hereby appointed a Greenville Utilities Commissioner to serve until June 30, 1994, and shall not be eligible for a second term; and [Kenneth R. Hammond's] seat is hereby appointed a Greenville

1 Utilities Commissioner to serve until June 30, 1993; all of whom are bona fide residents
2 of the City. William G. Blount is hereby appointed a Greenville Utilities Commissioner
3 to serve until June 30, 1993, and shall not be eligible for a second term; and [future
4 county seat] is hereby appointed a Greenville Utilities Commissioner to serve until June
5 30, 1994; both of whom are Greenville Utilities Commission customers and bona fide
6 residents of Pitt County residing outside the Greenville city limits.

7 Sec. 3. The Greenville Utilities Commissioners otherwise than as herein
8 provided shall be appointed by the City Council at their regularly monthly meeting in
9 June of each year. It is the intention of this charter that the City Council shall appoint
10 Greenville Utilities Commission members who have utilities expertise. Representation
11 should include some members with financial, engineering, environmental, technical, or
12 development backgrounds. The two members of the Greenville Utilities Commission
13 residing outside the city limits shall be nominated by the Pitt County Board of
14 Commissioners and appointed by the City Council. The City Council has the right to
15 reject any nominee(s) from the Pitt County Board of Commissioners and to request
16 additional nominees. If the Pitt County Board of Commissioners fails to recommend a
17 nominee to the City Council within 60 days of the original date requested by the City
18 Council, then the City Council may appoint any individual meeting the residency
19 requirement. No person shall be eligible for appointment to the Greenville Utilities
20 Commission who is an officer or employee of the City or Pitt County except that the
21 City Manager of the City of Greenville shall at all times be a full member of the
22 Greenville Utilities Commission. In the event a Greenville Utilities Commissioner
23 resigns, dies, or otherwise becomes incapable of performing his or her duties, the City
24 Council shall appoint, according to the same process described herein for regular
25 appointments, a Greenville Utilities Commissioner to fill the unexpired term at any
26 regular or special meeting of the City Council. Any Greenville Utilities Commissioner
27 filling an unexpired term shall be deemed to have filled said term for the full three-year
28 term. Except as otherwise permitted herein, no Greenville Utilities Commissioner shall
29 serve more than two three-year terms. Greenville Utilities Commissioners filling the
30 first three-year term will automatically fill a second three-year term unless the City
31 Council initiates the replacement process.

32 Sec. 4. The Greenville Utilities Commissioners shall organize by electing
33 one of their members Chair, whose term of office as Chair shall be for one year unless
34 the Chair's term on the Greenville Utilities Commission shall expire earlier, in which
35 event his or her term as Chair shall expire with the Chair's term on the Greenville
36 Utilities Commission. The Chair shall not be entitled to vote on any proposition before
37 the Greenville Utilities Commission except in case of a tie vote and only for the purpose
38 of breaking the tie. The members of the Greenville Utilities Commission are authorized
39 to fix their own salaries provided, however, that said salaries shall not exceed one
40 hundred fifty dollars (\$150.00) per month for the members and two hundred fifty dollars
41 (\$250.00) per month for the Chair provided, however, the City Council may, at its own
42 discretion, increase these caps from time to time as is appropriate to reflect inflation,
43 and provided, however, the City Manager shall receive no pay as a member of the
44 Greenville Utilities Commission other than his or her salary as City Manager. The

1 Greenville utilities Commission shall meet at least once each month at a designated time
2 and place unless the Chair designates some other meeting time and so notifies the other
3 members of the Greenville Utilities Commission. The Greenville Utilities Commission
4 and the Greenville City Council shall meet at least once each year to discuss mutual
5 interests of the City of Greenville and the Greenville Utilities Commission. Minutes
6 shall be kept for all regular meetings of the Greenville Utilities Commission.

7 Sec. 5. The Greenville Utilities Commission shall have entire supervision
8 and control of the management, operation, maintenance, improvement, and extension of
9 the public utilities of the City, which public utilities shall include electric, natural gas,
10 water, and sewer services, and shall fix uniform rates for all services rendered;
11 provided, however, that any person affected by said rates may appeal from the decision
12 of the Greenville Utilities Commission as to rates to the City Council. With approval by
13 the City Council, the Greenville Utilities Commission may undertake any additional
14 public enterprise service which may lawfully be operated by a municipality.

15 Sec. 6. The Greenville Utilities Commission shall employ a competent and
16 qualified General Manager whose duties shall be to supervise and manage the said
17 public utilities, subject to the approval of the Greenville Utilities Commission. The
18 General Manager, under the direction of and subject to the approval of the Greenville
19 Utilities Commission, shall cause the said utilities to be orderly and properly conducted;
20 the General Manager shall provide for the operation, maintenance, and improvement of
21 utilities; the General Manager shall provide for the extension of all utilities, except
22 sewer extensions made beyond the area regulated by the City of Greenville are subject
23 to the approval of the City Council, and shall furnish, on application, proper connections
24 and service to all citizens and inhabitants who make proper application for the same,
25 and shall in all respects provide adequate service for the said utilities to the customers
26 thereof; the General Manager shall attend to all complaints as to defective service and
27 shall cause the same to be remedied, and otherwise manage and control said utilities for
28 the best interests of the City of Greenville and the customers receiving service, and shall
29 provide for the prompt collection of all rentals and charges for service to customers and
30 shall promptly and faithfully cause said rentals and charges to be collected and received,
31 all under such rules and regulations as the Greenville Utilities Commission shall, from
32 time to time, adopt and in accordance with the ordinances of the City of Greenville in
33 such case made and provided.

34 Sec. 7. All monies accruing from the charges or rentals of said utilities shall
35 be deposited into the appropriate enterprise fund of the Greenville Utilities Commission
36 and the Greenville Utilities Commission's Director of Finance shall keep an account of
37 the same. The Greenville Utilities Commission shall at the end of each month make a
38 report to the City Council of its receipts and disbursements; the Greenville Utilities
39 Commission shall pay out of its receipts the cost and expense incurred in managing,
40 operating, improving, maintaining, extending, and planning for future improvements
41 and expansions of said utilities; provided, however, that should the funds arising from
42 the charges and rentals of said utilities be insufficient at any time to pay the necessary
43 expenses for managing, operating, improving, and extending said utilities, then and in
44 that event only, the City Council of the City of Greenville shall provide and pay into the

1 appropriate enterprise fund of the Greenville Utilities Commission a sum sufficient,
2 when added to the funds that have accrued from the rents and charges, to pay the costs
3 and expenses of managing, operating, improving, maintaining, extending, and planning
4 for future improvements and expansions of said utilities; the Greenville Utilities
5 Commission shall pay the principal on all such funds provided by the City Council with
6 interest thereon; provided, further, that the Greenville Utilities Commission shall
7 annually transfer to the City, unless reduced by the City Council, an amount equal to six
8 percent (6%) of the difference between the electric and natural gas system's net fixed
9 assets and total bonded indebtedness plus annually transfer an amount equal to fifty
10 percent (50%) of the Greenville Utilities Commission's retail cost of service for the City
11 of Greenville's public lighting. Public lighting is defined herein to mean City of
12 Greenville street lights and City of Greenville Parks and Recreation Department
13 recreational outdoor lighting. The preparation of a joint financial audit of the City of
14 Greenville and the Greenville Utilities Commission operations by a single auditing firm
15 is intended under the provisions of this charter and existing North Carolina statutes.

16 Sec. 8. In compliance with the time requirements of Chapter 159 of the
17 General Statutes, the Greenville Utilities Commission shall prepare and submit to the
18 City Council, for approval, a budget for the coming year showing its estimated revenue,
19 expenses, capital expenditures, debt service, and turnover to the City of Greenville. In
20 addition, the budget ordinance must identify construction projects of the Greenville
21 Utilities Commission which include individual contracts in excess of one-half of one
22 percent ($\frac{1}{2}\%$) of the Greenville Utilities Commission's annual budget. City Council
23 approval of the Greenville Utilities Commission's budget will constitute approval of
24 projects so identified and the contracts contained therein. Contracts in excess of one-
25 half of one percent ($\frac{1}{2}\%$) of the Greenville Utilities Commission's annual budget not so
26 identified and approved in the budget ordinance will require separate City Council
27 approval.

28 Sec. 9. The Greenville Utilities Commission shall approve the employment
29 and remuneration of all officers, agents, independent contractors, and employees
30 necessary and requisite to manage, operate, maintain, improve, and extend the service of
31 said utilities. It is, however, the intention of this Charter that the Greenville Utilities
32 Commission and the City of Greenville will implement and maintain mutual pay plans,
33 personnel policies, and benefits for their respective employees. The Greenville Utilities
34 Commission may require bond in such sum as it may deem necessary, which shall be
35 approved by the City Council, of all officers, agents, and employees having authority to
36 receive money for the Greenville Utilities Commission. The Greenville Utilities
37 Commission shall have the authority to name and designate a person in its employ as
38 secretary of the Greenville Utilities Commission.

39 Sec. 10. The Greenville Utilities Commission shall have authority at all times
40 to discharge and remove any officer, agent, independent contractor, or employee of the
41 Greenville Utilities Commission.

42 Sec. 11. All laws and clauses of laws in conflict with this act are hereby
43 repealed, expressly including Chapter 146 of the Public-Local Laws of 1941, entitled
44 "AN ACT TO PROVIDE A PERMANENT UTILITIES COMMISSION FOR THE

1 CITY OF GREENVILLE, IN PITT COUNTY, AND TO REPEAL CHAPTER TWO
2 HUNDRED AND ELEVEN OF THE PRIVATE LAWS OF ONE THOUSAND NINE
3 HUNDRED AND FIVE, AND AMENDMENTS THERETO, RELATING TO THE
4 WATER AND LIGHT COMMISSION OF THE CITY OF GREENVILLE.", except
5 that this act does not revive any act repealed by that act.

6 The purpose of this act is to revise the charter of the Greenville Utilities
7 Commission and to consolidate herein certain acts concerning the Greenville Utilities
8 Commission. It is intended to continue without interruption those provisions of prior
9 acts which are consolidated into this act so that all rights and liabilities that have
10 accrued are preserved and may be enforced. This act shall not be deemed to repeal,
11 modify, or in any manner affect any act validating, confirming, approving, or legalizing
12 official proceedings, actions, contracts, or obligations of any kind.

13 No provision of this act is intended nor shall be construed to affect in any
14 way any rights or interest, whether public or private:

- 15 (1) Now vested or accrued in whole or in part, the validity of which might
16 be sustained or preserved by reference to law to any provisions of law
17 repealed by this act.
- 18 (2) Derived from or which might be sustained or preserved in reliance
19 upon action heretofore taken pursuant to or within the scope of any
20 provisions of law repealed by this act.

21 All existing ordinances of the City of Greenville and all existing rules and
22 regulations of the Greenville Utilities Commission not inconsistent with provisions of
23 this act shall continue in full force and effect until repealed, modified, or amended.

24 No action or proceeding of any nature, whether civil or criminal, judicial or
25 administrative, or otherwise pending at the effective date of this act by or against the
26 City of Greenville or the Greenville Utilities Commission shall be abated or otherwise
27 affected by the adoption of this act. If any provisions of this act or the application
28 thereof to any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of this act which can be given effect without the invalid
30 provision or application, and to this end the provisions of this act are declared to be
31 severable.

32 Sec. 12. This act is effective upon ratification.