

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 668

Short Title: Burgaw Charter Revised.

(Local)

Sponsors: Senator Albertson.

Referred to: Finance.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
BURGAW AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Burgaw is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BURGAW.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Sec. 1.1. **Incorporation.** The Town of Burgaw, North Carolina, in the County of Pender, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Burgaw,' hereinafter at times referred to as the 'Town.'

"Sec. 1.2. **Powers.** The Town of Burgaw shall have and may exercise all of the powers, duties, rights, privileges, and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the Town of Burgaw, specifically, or upon municipal corporations, generally, by this Charter, by the North Carolina Constitution, or by general or local law.

"Sec. 1.3. **Corporate Limits.** The corporate limits of the Town of Burgaw shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map or description showing the current Town boundaries shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Governing Body.** The Mayor and Board of Commissioners, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of

1 the Town, and in conformity with applicable laws, the Mayor and Board of
2 Commissioners, hereinafter at times referred to as the 'Board,' may provide for the
3 exercise of all municipal powers, and shall be charged with the general government of
4 the Town.

5 "Sec. 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board
6 shall be composed of five members, each of whom shall be elected for a term of four
7 years in the manner provided by Article III of this Charter, provided they shall serve
8 until their successors are elected and qualified.

9 "Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected in the
10 manner provided by Article III of this Charter to serve for a term of four years, or until
11 his successor is elected and qualified. The Mayor shall be the official head of the Town
12 government and shall preside at all meetings of the Board. He shall have the right to
13 vote only when there are an equal number of votes in the affirmative and the negative
14 on any motion before the Board. The Mayor shall exercise such powers and perform
15 such duties as presently are or hereafter may be conferred upon him by the General
16 Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

17 "Sec. 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall
18 appoint one of its members to act as Mayor Pro Tempore to perform the duties of the
19 mayor in the Mayor's absence or disability. The Mayor Pro Tempore shall have no fixed
20 term of office, but shall serve in such capacity at the pleasure of the remaining members
21 of the Board.

22 "Sec. 2.5. **Meetings of the Board.** In accordance with general law, the Board shall
23 establish a suitable time and place for its regular meetings. Special meetings may be
24 held as provided by general law.

25 "ARTICLE III. ELECTIONS.

26 "Sec. 3.1. **Regular Municipal Elections; Conduct and Method of Election.**
27 Regular municipal elections shall be held in the Town every two years in odd-numbered
28 years and shall be conducted in accordance with the uniform municipal election laws of
29 North Carolina. Elections shall be conducted on a nonpartisan basis and the results
30 determined by a plurality as provided in G.S. 163-292.

31 "Sec. 3.2. **Election of Commissioners.** The qualified voters of the entire Town shall
32 elect the members of the Board. The candidates for the Board shall be elected at large.
33 Those candidates who receive the highest number of votes in the Town at large shall be
34 declared duly elected to the office for which the candidate has filed. At the municipal
35 election to be held in November 2001, two members shall be elected for a four-year
36 term and at the municipal election to be held in November 2003, three members shall be
37 elected for a four-year term. Commissioners Charles M. Rooks and Howard N. Walker,
38 Jr., shall continue to serve as members of the Board until the expiration of their terms in
39 December 2001. Commissioners Charles M. Harrell, Charles E. Sparkman, and R.
40 Eugene Brown shall continue to serve as members of the Board until the expiration of
41 their terms in December 2003.

42 "Sec. 3.3. **Election of the Mayor.** At the regular municipal election in 2001, and
43 quadrennially thereafter, a Mayor shall be elected to serve a term of four years. The

1 qualified voters of the entire Town shall elect the Mayor. John W. James, Jr. shall serve
2 as Mayor until the expiration of his term in December 2001.

3 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

4 "Sec. 4.1. **Form of Government.** The Town shall operate under the
5 Council-Manager form of government as provided in Part 2 of Article 7 of Chapter
6 160A of the General Statutes.

7 "Sec. 4.2. **Town Manager.** The Board shall appoint a Town Manager who shall be
8 the administrative head of the Town government and shall be responsible for the
9 administration of all departments of the Town government. The Town Manager shall be
10 appointed with regard to merit only, and shall hold office at the pleasure of the Board
11 and shall receive such compensation as the Board shall fix by ordinance.

12 The Town Manager shall also perform the following duties:

- 13 (1) Take measures to ensure that within the Town the laws of the State and
14 the ordinances, resolutions, and regulations of the Board are faithfully
15 executed.
- 16 (2) Attend all meetings of the Board and recommend for adoption any
17 measures he deems expedient.
- 18 (3) Make reports to the Board from time to time upon affairs of the Town,
19 and keep the Board fully advised of the Town's financial condition and
20 its future financial needs.
- 21 (4) Appoint, suspend, and remove all heads of departments and other
22 employees of the Town, except the Town Attorney and the Town
23 Clerk, who shall be appointed by the Board.
- 24 (5) Perform any other duties that may be required and authorized by the
25 Board.
- 26 (6) Prepare and submit the annual budget and capital program to the
27 Board.

28 "ARTICLE V. SPECIAL PROVISIONS.

29 "Sec. 5.1. **Intent.** The purpose of this act is to revise the Charter of the Town of
30 Burgaw and to consolidate herein certain acts concerning the property, affairs, and
31 government of the Town. It is intended to continue without interruption those provisions
32 of prior acts that are consolidated into this act so that all rights and liabilities that have
33 accrued are preserved and may be enforced.

34 "Sec. 5.2. **Construction.** This act shall not be deemed to repeal, modify, or in any
35 manner affect any of the following acts, portions of acts, or amendments thereto,
36 whether or not the acts, portions of acts, or amendments are expressly set forth herein:

- 37 (1) Any acts concerning the property, affairs, or government of public
38 schools in the Town of Burgaw.
- 39 (2) Any acts validating, confirming, approving, or legalizing official
40 proceedings, actions, contracts, or obligations of any kind.

41 "Sec. 5.3. **Repeal of specific acts.** The following acts or portions of acts, having
42 served the purposes for which they were enacted, or having been consolidated into this
43 act are hereby repealed:

44 Chapter 23 of the Private Laws of 1879.

1 Chapter 174 of the Public Laws of 1887.
2 Chapter 497 of the Private Laws of 1907.
3 Chapter 317 of the Private Laws of 1909.
4 Chapter 69 of the Private Laws of 1913, Extra Session.
5 Chapter 265 of the Private Laws of 1913.
6 Chapter 672 of the Public Laws of 1913.
7 Chapter 23 of the Private Laws of 1937.
8 Chapter 629 of the 1951 Session Laws.
9 Chapter 157 of the 1953 Session Laws.
10 Chapter 98 of the 1961 Session Laws.
11 Chapter 823 of the 1991 Session Laws.

12 "Sec. 5.4. **Exclusions.** No provision of this act is intended, nor shall be construed, to
13 affect in any way any rights or interests, whether public or private:

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

20 "Sec. 5.5. **Revival.** No law heretofore repealed expressly or by implication, and no
21 law granting authority which has been exhausted, shall be revived by either:

- 22 (1) The repeal herein of any act repealing such law.
- 23 (2) Any provision of this act that disclaims an intention to repeal or affect
24 enumerated or designated laws.

25 "Sec. 5.6. **Prior Ordinances Saved.** All existing ordinances and resolutions of the
26 Town of Burgaw and all existing rules or regulations of departments or agencies of the
27 Town of Burgaw, not inconsistent with the provisions of this act, shall continue in full
28 force and effect until repealed, modified, or amended.

29 "Sec. 5.7. **Effect on Legal Proceedings.** No action or proceeding of any nature,
30 whether civil or criminal, judicial or administrative, or otherwise, pending on the
31 effective date of this act by or against the Town of Burgaw or any of its departments or
32 agencies shall be abated or otherwise affected by the adoption of this act.

33 "Sec. 5.8. **Severability.** If any provision of this act or the application thereof to any
34 person or circumstance is held invalid, the invalidity shall not affect other provisions or
35 applications of this act which can be given effect without the invalid provision or
36 application, and to this end the provisions of this act are declared to be severable.

37 "Sec. 5.9. **Reference to Amended Provisions.** Whenever a reference is made in this
38 act to a particular provision of the General Statutes, and the provision is later amended,
39 repealed, recodified, or superseded, the reference shall be deemed amended to refer to
40 the amended General Statutes, or to the General Statutes which most clearly correspond
41 to the statutory provision that is amended, repealed, recodified, or superseded.

42 "Sec. 5.10. **General Repealer.** All laws and clauses of laws in conflict with the
43 provisions of this act are hereby repealed.

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