

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 861  
HOUSE BILL 1640

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF  
CONCORD AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Concord is revised and consolidated to read:

"THE CHARTER OF THE CITY OF CONCORD.

"ARTICLE I.

"Incorporation, Corporate Powers And Boundaries.

"Section 1.1. Incorporation. The City of Concord, North Carolina in the County of Cabarrus, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Concord', hereinafter at times referred to as the 'city'.

"Sec. 1.2. Powers. The City of Concord 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 City of Concord specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the City of Concord shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the city, and as the same may be altered from time to time in accordance with law. The official map of the city showing its current corporate boundaries, entitled 'Map of the City of Concord, North Carolina', shall be maintained in the office of the City 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 of the city shall be made.

"ARTICLE II.

"Mayor And Board of Aldermen.

"Sec. 2.1. Governing Body. The Mayor and Board of Aldermen, elected and constituted as herein set forth, shall be the governing body of the city. On behalf of the city, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the city.

"Sec. 2.2. Mayor; term of office; duties. The Mayor shall be elected by and from the qualified voters of the city in the manner provided by Article III of this Charter to serve for a term of four years, or until his successor is elected and qualified. The Mayor shall

be the official head of the city government and shall preside at all meetings of the Board. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the city.

"Sec. 2.3. Board of Aldermen; composition; terms of office.

The Board of Aldermen shall be composed of seven members, each of whom shall be elected by and from the qualified voters of the city for terms of four years each in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Board of Aldermen shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

#### "ARTICLE III.

##### "Elections.

"Sec. 3.1. Regular municipal elections; conduct and method of election. Beginning in 1989, regular municipal elections shall be held in the city every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and Board of Aldermen shall be elected according to the partisan primary and election method of election, as set out in G.S. 163-291.

"Sec. 3.2. Election of the Mayor and Board of Aldermen. (a) The Mayor shall be nominated and elected by all the voters of the city voting at large.

(b) One member of the Board of Aldermen shall be nominated and elected by all the voters of the city voting at large. Six members of the Board of Aldermen shall reside in and represent the wards of the city, but shall be nominated and elected by all the voters of the city voting at large.

"Sec. 3.3. Wards; ward boundaries. (a) The city shall continue to be divided into six single-member wards, with the ward boundaries being drawn so that each ward includes, as nearly as possible, the same number of persons residing therein.

(b) The ward boundaries shall be those existing at the time of the ratification of this charter, as the same are set forth on an official map of the city. An official map, showing the current ward boundaries, shall be maintained permanently in the office of the City Clerk, and shall be available for public inspection.

(c) In accordance with State law, the Board of Aldermen shall be authorized to revise from time to time the ward boundaries of the city. Upon alteration of the ward boundaries pursuant to law, the Board shall cause the appropriate changes to be made in the official map.

#### "ARTICLE IV.

##### "Organization and Administration.

"Sec. 4.1. Form of government. Except as otherwise provided in this Article, the city shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. City Manager. The Board of Aldermen shall appoint a City Manager who shall be the chief administrator of city government, and who shall be responsible to the Board for the proper administration of the affairs of the city. The Manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the Board. Although he need not be a resident at the time of his appointment, the Manager shall become a resident of the city after his appointment. In exercising his duties as chief administrator, the Manager shall have the following powers and duties:

(a) He shall appoint, suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the City Attorney, City Finance Director, Tax Collector, and City Clerk, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Board, except as otherwise provided by law.

(c) He shall attend all meetings of the Board and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the City Charter and the ordinances, resolutions and regulations of the Board are faithfully executed within the city.

(e) He shall prepare and submit the annual budget and capital program to the city.

(f) He shall annually submit to the Board and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(g) He shall make any other reports that the Board may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Board.

"Sec. 4.3. City Attorney. The Board of Aldermen shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the city; to advise the Mayor, Board and other city officials with respect to the affairs of the city; to draft all legal documents relating to the affairs of the city; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the city may be concerned; to attend meetings of the Board; and to perform other duties required by law or as the Board may direct.

"Sec. 4.4. City Tax Collector. The Board of Aldermen shall appoint a City Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the city, subject to the General Statutes, the provisions of this charter and the ordinances of the

city. The City Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Sec. 4.5. Finance Director. The Board of Aldermen shall appoint a Finance Director to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as may be required by the Board.

"Sec. 4.6. City Clerk. The Board of Aldermen shall appoint a City Clerk to give notice of meetings of the Board, keep a journal (minutes) of the proceedings of the Board, be the custodian of all city records, and perform any other duties that may be required by law or the Board.

"Sec. 4.7. Organization of city government. Consistent with applicable State laws, the Board may establish other positions, departments, boards, agencies, and generally organize the city government in order to promote the orderly and efficient administration of the affairs of the city.

#### "ARTICLE V.

##### "Boards and Commissions.

##### "Chapter 1. Reserved.

##### "Chapter 2.

##### "Alcoholic Beverage Control Board.

"Sec. 5.11. Board established. There shall continue to be a board known as the Alcoholic Beverage Control Board of the City of Concord, which shall have and may exercise all of the powers and duties enumerated herein.

"Sec. 5.12. Composition of board. The Alcoholic Beverage Control Board shall be composed of a chairman and two other members who shall be appointed by the Board of Aldermen. The chairman and each member shall be well known for their character, ability and business acumen, and shall serve for staggered terms of three years each. Their successors, or any vacancy, shall be filled by appointment of the Board of Aldermen.

"Sec. 5.13. Powers and duties. The Alcoholic Beverage Control Board shall have all the powers and duties imposed by Chapter 18B of the General Statutes on city boards of alcoholic control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control the same as county boards of alcoholic control, as provided in Chapter 18B of the General Statutes; provided, no city alcoholic beverage control stores shall be located or operated within 450 feet of any school or church in the city. The Alcoholic Beverage Control Board and the operation of any city alcoholic beverage control store shall be subject to the provisions of Chapter 18B of the General Statutes, except to the extent which the same may be in conflict with the provisions of this Chapter.

"Sec. 5.14. Distribution of profits. Out of the net profits remaining after the payment of all costs and operating expenses, and after retaining a sufficient and proper working capital, the Board of Alcoholic Beverage Control shall distribute the net profits as follows: the first fifteen percent (15%) for law enforcement; of the remaining balance, twenty-five percent (25%) to Cabarrus County and the seventy-five percent (75%) to the City of Concord.

"Sec. 5.15. Expenditures for law enforcement. The funds allocated for law enforcement in Section 5.14 shall be expended by the Alcoholic Beverage Control Board for law enforcement. In the expenditure of such funds, the board shall employ one or more ABC officers to be appointed by and be directly responsible to the Board. The persons so appointed shall take the oath of office prescribed by law for peace officers and shall have the same powers and authority, both within the City of Concord and Cabarrus County, as other peace officers of the city and county, including the common law of hot pursuit as set forth for ABC officers in Chapter 18B of the General Statutes.

"Sec. 5.16. Law enforcement - joint agreement. With approval of the Board of Aldermen, the Alcoholic Beverage Control Board may enter into a joint undertaking with any unit or units of government, whereby ABC officers employed by the Board may exercise their power and authority outside the boundaries of Cabarrus County. When entering into such a joint undertaking, the Alcoholic Beverage Control Board shall execute a contract or agreement with the cooperating unit or units of government, and shall comply with the provisions of Part 1, Article 20, Chapter 160A of the General Statutes, relating to interlocal cooperation, or the provisions of G.S. 160A-288.

"Sec. 5.17 through 5.20 reserved.

"Chapter 3.

"Firefighter's Supplementary Pension Fund.

"Sec. 5.21. Fund created. There shall continue to be a supplementary pension fund for the Fire Department of the City of Concord, to be known as the 'Concord Firefighter's Supplementary Fund', hereinafter referred to as the 'Supplementary Pension Fund'. The fund shall be administered by a Board of six trustees composed of the Chief of the Fire Department of the city, two firefighters who shall be elected by a majority vote of the Chief and members of the Fire Department, the City's Finance Director, and two members of the Board of Aldermen designated by the Board upon recommendation of the Chief and members of the Fire Department. The members of the Board of Trustees shall be elected for a term of one year and shall hold office until their successors are elected and qualified.

"Sec. 5.22. Transfer of funds. All funds coming into the Firefighter's Relief Fund under G.S. 118-5 that will increase the fund to an amount in excess of five hundred dollars (\$500.00) shall be transferred immediately to the 'Supplemental Pension Fund' so as to leave in the Firefighter's Relief Fund an amount not greater than five hundred dollars (\$500.00) at any time.

"Sec. 5.23. Eligibility for benefits; retirement procedure.

(a) Any person who is a full-time paid member of the Concord Fire Department, as shown by the records of the city, shall be eligible for benefits from the 'Supplementary Pension Fund'; provided that no such person shall be eligible for benefits from the 'Supplementary Pension Fund' unless such person has 30 years' service in the Concord Fire Department or has been retired as a member of the Concord Fire Department under the Social Security Act, or any retirement system the city may participate in, or because of a disability. Any disability retirement shall be on a medical board's recommendation. The Board of Trustees shall designate a medical board

composed of three physicians. In special or unusual cases, the Board of Trustees may employ one or more other physicians, if, in their opinion, the same shall be advisable or necessary. The medical board shall arrange for and make physical examinations and pass upon all medical examinations, all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the Board of Trustees its conclusion and recommendations upon the matters referred to it. Upon the application of a member for disability retirement, he may be retired by the Board of Trustees not less than 30 days nor more than 90 days next following the date of filing application, provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the Board of Trustees may, and upon his application, shall require any disability member who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at the place of residence of the member, or other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability member who has not yet attained the age of 60 years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such; and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Trustees.

(c) Should the medical board report and certify to the Board of Trustees that such disabled member is engaged in, or is able to engage in, a gainful occupation paying more than the difference between his retirement allowance and the average annual compensation and should the Board of Trustees concur in such report, then the amount of his pension shall be reduced to an amount which together with his pension and the amount earnable by him, shall equal the amount of his average annual compensation. Should his earning capacity be later changed, the amount of his pension may be further modified. Should he be restored to a full employment in the Concord Fire Department, or by other employer, at a salary equal to his compensation at the time of disability, his retirement shall cease. Should it be determined he is physically able to return to full employment in the Concord Fire Department before he has attained 60 years of age and he refuses employment, he forfeits all rights to a retirement pension. This Chapter does not modify or alter in any way the Worker's Compensation Laws of the State of North Carolina.

"Sec. 5.24. Retirement pension. Any full-time paid member of the Fire Department who retires or is retired under the provisions of this Chapter shall receive monthly for the remainder of his life from the 'Supplementary Pension Fund' an amount equal to two percent (2%) for each five years of service up to 30 years' service; after 30 years or more service, he shall be eligible to receive fourteen percent (14%) of his average monthly compensation. In no case shall the retirement pension exceed fourteen percent (14%) of his monthly compensation at the time of retirement.

"Sec. 5.25. Treasurer. The Finance Director of the City of Concord, as a member of the Board of Trustees of the 'Supplementary Pension Fund', shall be treasurer and custodian of the fund and shall pay the beneficiaries thereof on the first day of each and every month any monies in his possession that such beneficiaries may be entitled to under the provisions of this Chapter.

"Sec. 5.26. Bond required. The Finance Director of the City of Concord, as custodian of the 'Supplementary Pension Fund', shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to one and one-quarter times the maximum amount estimated by the Board of Trustees as likely to be in his possession as such custodian at any time within the fiscal year for which the bond is given. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse and account for, as herein provided, all funds and property coming into his hands as such custodian, and the premiums on the bond shall be paid out of the 'Supplementary Pension Fund'. This bond, in the discretion of the Board of Aldermen, may be combined with that required by G.S. 159-29.

"Sec. 5.27. Investment of funds. The custodian of the 'Supplementary Pension Fund' is authorized and directed to invest all monies coming into his possession belonging to the 'supplementary pension fund', except so much as the Board of Trustees from time to time determined is reasonably necessary for the prompt payment of claims and expenses, in such securities as the Board of Trustees shall select; provided, however, that such securities shall be limited to, and upon the same conditions as those enumerated in G.S. 159-30.

"Sec. 5.28. Gifts accepted. The Board of Trustees, as herein provided for, may, in its discretion, take and receive any gift, grant, bequest or devise or any real or personal property or other things of value for, and as, the property of the 'Supplementary Pension Fund', and hold and disburse and invest the same for the use of the fund in accordance with the purpose of this Chapter and the conditions attached to any such gift, grant, bequest or devise.

"Sec. 5.29. Inconsistent provisions. The provisions of Chapter 118 of the General Statutes of North Carolina creating a Firefighter's Relief Fund are repealed as to the City of Concord insofar, and only insofar, as the provisions are inconsistent with and contradictory to the provisions of this Chapter."

Sec. 2. The Board of Light and Water Commissioners for the City of Concord shall be dissolved. All powers and duties of said Board shall become powers and duties of the City of Concord. All real and personal property and all assets owned by the Board of Light and Water Commissioners shall be held under the name and ownership of the City of Concord.

Sec. 3. In order to effectuate the dissolution of the Board of Light and Water Commissioners, the Board of Aldermen of the City of Concord is hereby granted the authority to amend or restructure the City's budget ordinance, as well as the budget ordinance of the Board of Light and Water Commissioners for the City of Concord. All such actions by the Board of Aldermen prior to the ratification of this act relative to the enterprise accounts of the Board of Light and Water Commissioners are hereby ratified. The authority granted by this section shall expire on June 30, 1987.

Sec. 4. The purpose of this act is to revise the Charter of the City of Concord and to consolidate herein certain acts concerning the property, affairs, and government of the city. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 5. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

- (a) Any acts concerning the property, affairs, or government of public schools in the City of Concord.
- (b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 6. The following act is repealed:

Chapter 744, Session Laws of 1977, except for Sections 5 and 6 of that act.

Sec. 7. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 8. All existing ordinances, resolutions and other provisions of the City of Concord not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 9. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 10. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 11. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed, superseded or recodified.

Sec. 12. Section 1 and Sections 4 through 12 of this act are effective upon ratification. Sections 2 and 3 are effective July 1, 1986.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.