

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 389

Short Title: Baseball Park Districts.

(Public)

Sponsors: Senators Hoyle, McDaniel, Martin of Guilford, and Shaw of Guilford.

Referred to: Finance.

March 13, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA TRIAD METROPOLITAN
3 BASEBALL PARK DISTRICT AND TO ALLOW BASEBALL PARK DISTRICTS
4 TO ENTER INTO INSTALLMENT FINANCING AGREEMENTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. A Charter for the North Carolina Triad Metropolitan Baseball Park
7 District is enacted as follows:

8 "CHARTER OF THE NORTH CAROLINA
9 TRIAD METROPOLITAN BASEBALL PARK DISTRICT.

10 "Section 1. **Legislative Findings.** – (a) The General Assembly determines that
11 the construction, financing, and operation of a major league baseball park in the Triad
12 area serves a public purpose in that it will:

- 13 (1) Enhance the opportunities for recreational entertainment for all North
14 Carolinians;
- 15 (2) Generate new economic activity in the Triad area, leading to the
16 establishment of many new businesses;
- 17 (3) Encourage economic development throughout North Carolina by
18 enhancing the State's attractiveness to new and relocated businesses and
19 its attractiveness as a tourist destination; and
- 20 (4) Provide numerous new jobs for North Carolinians.

1 (b) The General Assembly further determines that because constructing a major
2 league baseball park is an extraordinarily complex task and because being able to
3 construct such a park in as short a time as possible is crucial to the award of a major
4 league baseball franchise to the Triad area, it is necessary to waive the application of the
5 usual construction contracting requirements for the park's construction.

6 "Sec. 2. **Definitions.** – The words and phrases defined in this section have the
7 meanings indicated when used in this Charter, unless the context clearly requires another
8 meaning.

9 (1) 'Authority' means the North Carolina Triad Metropolitan Baseball Park
10 Authority.

11 (2) 'District' means the North Carolina Triad Metropolitan Baseball Park
12 District, established by this Charter.

13 (3) 'Major League Baseball' means the organization that controls the
14 administrative functions for the ownership and operation of major
15 league baseball operations in the United States and Canada.

16 (4) 'Major league baseball park' means a sports facility designed for use
17 primarily as a major league baseball park or stadium. Such a facility
18 may include, without limitation, features such as parking areas and
19 facilities, office facilities for the District or any team or other user of the
20 facility, associated retail and other commercial facilities, and other
21 ancillary facilities necessary or desirable for the sports facility and its
22 success. Such a facility also includes the landscaped grounds
23 surrounding the baseball park and related and ancillary facilities.

24 "Sec. 3. **District Incorporated.** – The inhabitants of the counties listed in this section
25 are a body corporate and politic and a political subdivision of the State under the name
26 'North Carolina Triad Metropolitan Baseball Park District'. The District comprises the
27 following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford,
28 Montgomery, Randolph, Rockingham, Stokes, Surry, and Yadkin. The District is a
29 baseball park district.

30 "Sec. 4. **Authority Established.** – (a) The District is governed by the
31 Authority, which has 15 members, appointed as follows:

32 (1) The Governor appoints five members, one at-large who shall be the
33 chair of the Authority, one each of whom at the time of appointment
34 were residents of Alamance and Davidson Counties and two of whom at
35 the time of appointment were residents of Forsyth County.

36 (2) The General Assembly appoints five members upon the
37 recommendation of the President Pro Tempore of the Senate, one each
38 of whom at the time of appointment were residents of Caswell,
39 Rockingham, and Montgomery Counties and two of whom at the time
40 of appointment were residents of Guilford County.

41 (3) The General Assembly appoints five members upon the
42 recommendation of the Speaker of the House of Representatives, one

1 each of whom at the time of appointment were residents of Randolph,
2 Stokes, Surry, Yadkin, and Davie Counties.

3 (b) Members of the Authority serve three-year terms, but in appointing the initial
4 members of the Authority, the Governor, the General Assembly upon the
5 recommendation of the Speaker of the House of Representatives and the General
6 Assembly upon the recommendation of the President Pro Tempore shall each designate
7 one of their appointees to serve until July 1, 1999, two to serve until July 1, 2000, and
8 two to serve until July 1, 2001. If a vacancy occurs in the membership of the Authority,
9 and the person causing the vacancy was appointed by the Governor, the Governor shall
10 fill the vacancy for the remainder of the unexpired term. If the person causing the
11 vacancy was appointed by the General Assembly, the vacancy shall be filled pursuant to
12 G.S. 120-122. Initial terms commence upon appointment.

13 (c) The Authority may elect a vice-chair and such other officers as it determines
14 for terms established in the bylaws of the Authority.

15 (d) Once the Governor has appointed the initial chair of the Authority, the chair
16 shall determine the time and place of the Authority's initial meeting and shall cause
17 notice of the meeting to be given to each member of the Authority and to the public.
18 Thereafter, the Authority may establish a schedule of regular meetings and may provide
19 in its bylaws for the manner in which special meetings may be called.

20 (e) A majority of the members of the Authority, not counting vacant seats,
21 constitutes a quorum. The Authority may meet by conference telephone call as provided
22 by G.S. 143-318.13(a).

23 (f) The Authority may take action only upon the vote of a majority of its
24 members, not counting vacant seats and not counting members who have disclosed a
25 conflict of interest in the matter under discussion and vote.

26 (g) The Authority may adopt bylaws for the regulation of its affairs and the
27 conduct of its business, including rules of procedure, consistent with this Charter and
28 other applicable statutes.

29 (h) Members of the Authority are not compensated for their service, but the
30 Authority may provide that members are to be reimbursed for actual expenses incurred
31 while serving as an Authority member.

32 "Sec. 5. **Conflicts of Interest.** – (a) G.S. 14-234 applies to the District and its
33 employees and to the members of the Authority.

34 (b) If a member of the Authority, or any member of the immediate family of a
35 member of the Authority, or the employer of a member of the Authority has a direct
36 financial interest in any matter that comes before the Authority, the affected member
37 shall disclose the interest and shall abstain from participating in the discussion of or vote
38 on the matter.

39 (c) Violation of this section does not affect the validity of any debts or obligations
40 incurred by the district.

41 "Sec. 6. **District Powers.** – In addition to powers set out elsewhere in this Charter
42 and powers granted to the District by other statutes, the District may:

43 (1) Enter into contracts.

- 1 (2) Sue and be sued in its own name, and plead and be impleaded.
- 2 (3) Adopt an official seal.
- 3 (4) Apply for, accept, receive, and disburse funds and grants made available
- 4 to it by the United States of America or any agency thereof, the State of
- 5 North Carolina or any agency thereof, any unit of local government or
- 6 other political subdivision, and any private entity or person; and accept
- 7 donations of property. The District may comply with the conditions and
- 8 requirements respecting any gift, grant, or donation of any property or
- 9 funds.
- 10 (5) Employ and compensate such personnel as the Authority determines.
- 11 The Authority may delegate to any employee of the District the
- 12 authority to employ, supervise, discipline, or discharge other employees
- 13 of the District. The District is subject to G.S. 153A-98 with respect to
- 14 the personnel files of its employees.
- 15 (6) Contract with consultants and other independent contractors.
- 16 (7) Contract with and appropriate money to any person, association, or
- 17 corporation, public or private, in order to carry out any public purpose
- 18 that the District is authorized by this Charter or other law to engage in.
- 19 (8) Procure insurance to protect against loss of the District's property or
- 20 other assets, and against liabilities incurred by the District, the
- 21 Authority, or any officer, employee, or agent of the District. The
- 22 District may, pursuant to G.S. 160A-167, provide the defense of any
- 23 officer or employee of the District.
- 24 (9) Acquire and maintain administrative offices.
- 25 (10) Acquire by purchase, lease, gift, eminent domain, or otherwise, or
- 26 obtain options for the acquisition of, any real or personal property or
- 27 interest therein, in order to carry out the authorized activities of the
- 28 District. The District may not acquire property through the exercise of
- 29 eminent domain until after Major League Baseball has announced
- 30 approval of the award of a franchise for a location within the District.
- 31 In exercising the power of eminent domain, the District shall follow the
- 32 procedures of Chapter 40A of the General Statutes applicable to local
- 33 public condemners.
- 34 (11) Sell, lease, exchange, transfer, or otherwise dispose of, or grant options
- 35 for any such purposes with respect to, any real or personal property or
- 36 interest therein. In disposing of property or any interest in property, the
- 37 District may proceed under such procedures as it determines and is not
- 38 subject to any procedural requirements not included in this Charter.
- 39 (12) Promote award of a major league baseball franchise to a location within
- 40 the District.
- 41 (13) Design, construct, equip, improve, promote, operate, maintain, lease, or
- 42 contract for the operation and maintenance of a major league baseball
- 43 park. The baseball park shall be located on a tract of land at least forty

1 percent (40%) of which is located in each of the two most populous
2 counties in the district, according to the most recent decennial federal
3 census. If the Authority resolves that construction of a major league
4 baseball park or any portion thereof must be expedited for good cause as
5 determined by the Authority:

6 a. The District is exempt from the following statutes: G.S. 143-
7 128, subsections (a) through (e); G.S. 143-129; 143-131; and
8 143-132; or

9 b. The District may contract with the entity that has been awarded
10 the major league baseball franchise for that entity, or an
11 affiliated, parent, or subsidiary entity, to construct the baseball
12 park, with clear title to the baseball park passing to the District at
13 the completion of construction. Construction under this
14 paragraph is not subject to State laws on public contract bidding.

15 If the Authority does adopt such a resolution, the Authority shall establish and
16 use alternative methods of contracting that are fair and competitive, in
17 the conclusive judgment of the Authority. The District may contract for
18 the right to name any park or other facility owned by the District, or
19 may include the right to contract for the park's or facility's name in any
20 lease of or contract for the operation of the park or facility.

21 (14) Acquire real property or interests in real property for highway
22 improvements that will benefit the major league baseball park, and
23 convey, with or without monetary consideration, such property or
24 interests in property to the Department of Transportation. The District
25 may not acquire property for highway improvements through the
26 exercise of eminent domain until after Major League Baseball has
27 announced approval of the award of a franchise for a location within the
28 District. In the acquisition by eminent domain of such real property or
29 interests in real property, the District may use the procedures of Article
30 9 of Chapter 136 of the General Statutes. For the purpose of this
31 subdivision, the words 'Department of Transportation' appear in Article
32 9, they are deemed to include the District or Authority, and whenever
33 the words 'Administrator', 'Administrator of Highways', 'Administrator
34 of the Department of Transportation', or 'Chairman of the Department of
35 Transportation' appear in Article 9, they are deemed to include an
36 appropriate official of the District as designated by the Authority.

37 (15) Establish and collect fees and charges for the use of its facilities.

38 (16) Enter into partnerships, joint ventures, common ownership, operating
39 agreements, and other arrangements with other persons to further
40 District purposes.

41 (17) Do all acts and things necessary, convenient, or desirable to carry out
42 the purposes of and exercise the powers granted to it by this Charter.

1 "Sec. 7. **Triple Net Lease Required.** – Any lease of the baseball park for the purpose
2 of operating it for Major League Baseball must be triple net for a minimum of 25 years,
3 with the lessee responsible for upkeep and maintenance.

4 "Sec. 8. **District Taxes.** – (a) Authorization. – The Authority may, by resolution,
5 subject to the conditions set out in this subsection, levy a temporary local sales and use
6 tax at the rate of one percent (1%) within the District as provided in this section. Before
7 it may adopt such a resolution, however, two conditions must be met: (i) Major League
8 Baseball must have announced approval of the award of a franchise for a location within
9 the District, and (ii) the District's voters must have approved the levy of the tax in a
10 referendum called and held for that purpose.

11 (b) Referendum. – The State Board of Elections shall, upon the written request of
12 the Authority, call a referendum for the purpose of submitting to the voters of the District
13 the question of whether a temporary sales and use tax at the rate of one percent (1%) will
14 be levied in the District. The date of the referendum shall be set by the Authority, which
15 may set it for any day, including the day of any regular or special election held for
16 another purpose; the referendum, however, may not otherwise be held within 50 days
17 before or 50 days after a statewide primary, election, or referendum. In fixing the date of
18 the referendum, the Authority shall consult with one or more of the county boards of
19 elections within the District in order that the referendum shall not unduly interfere with
20 other elections or referendums already scheduled or in process. Notice of the referendum
21 shall be given in the manner and at the times required by G.S. 163-33(8). The
22 referendum and the registration of voters therefor shall be held under and in accordance
23 with the general laws of the State. Absentee ballots shall be authorized in the
24 referendum.

25 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
26 Statutes, or both may be used in accordance with rules prescribed by the State Board of
27 Elections. The question to be presented on the ballots or voting systems shall be
28 substantially as follows:

29 **'MAJOR LEAGUE BASEBALL PARK INITIATIVE**

30 **[] YES [] NO**

31 When Major League Baseball has announced approval of a major league baseball
32 franchise for a location within the North Carolina Triad Metropolitan Baseball Park
33 District, may the District help finance no more than two-thirds of the cost of a major
34 league baseball park through levy of a temporary one percent (1%) sales and use tax
35 within the District, for no longer than one year?"

36 The results of the referendum shall be canvassed and declared as provided by law for
37 elections of State officers; the results of the referendum shall be certified by the State
38 Board of Elections to the Authority in the manner and at the time provided by the general
39 election laws of the State for certifications of State elections. If a majority of persons
40 voting in the referendum vote in favor of levying the tax, the issue is approved.

41 (c) Scope; Administration. – Except as provided in this section, the adoption, levy,
42 scope, and collection of the tax shall be in accordance with Article 39 of Chapter 105 of

1 the General Statutes as if the District were a county. The Secretary of Revenue shall
2 distribute the net proceeds of the tax to the Authority.

3 (d) Effective Date of Tax. – A tax levied pursuant to this section shall become
4 effective on the date specified in the resolution levying the tax. That date must be the
5 first day of a calendar month, however, and may not be earlier than the first day of the
6 second month after the date the resolution is adopted.

7 (e) Use of Proceeds. – The Authority may use the proceeds of a tax levied pursuant to
8 this section for any authorized activities of the district. Any of these proceeds used to
9 design, construct, equip, or improve a major league baseball park as provided in Section
10 6(13) must be matched by private funds on the basis of one dollar (\$1.00) of private
11 funds used for this purpose for every two dollars (\$2.00) of tax proceeds used for this
12 purpose. Any of these proceeds not matched as required in this subsection shall not be
13 used to design, construct, equip, or improve a major league baseball park as provided in
14 Section (13).

15 (f) Termination of Tax. – The authority to levy a tax pursuant to this section
16 terminates on the first day of the twelfth month after the effective date of the levy of the
17 tax.

18 "Sec. 9. **Budgeting and Fiscal Control.** – The District is a unit of local government
19 under the Local Government Budget and Fiscal Control Act.

20 "Sec. 10. **Assistance From Local Governments.** – Any county, city or town, or
21 other unit of local government or public authority located within the District may
22 contribute or advance moneys or other assets or services to the District. The District may
23 reimburse a local government or public authority for any such advance once it is
24 receiving the proceeds of any tax levied by it pursuant to this Charter or otherwise has
25 funds available to do so.

26 "Sec. 11. **Zoning and Annexation.** – (a) The District may regulate land use upon
27 real property owned by it, and such property is not subject to any zoning ordinance
28 adopted by a county or city.

29 (b) Real property owned by the District is not subject to annexation pursuant to
30 Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes."

31 Section 2. The General Statutes are amended by adding a new Chapter to read:

32 **"CHAPTER 160C.**

33 **"BASEBALL PARK DISTRICTS.**

34 **"§ 160C-1. Baseball park districts.**

35 The General Assembly may establish baseball park districts as bodies political and
36 corporate and political subdivisions of the State."

37 Section 3. G.S. 160A-20(h) reads as rewritten:

38 "(h) As used in this section, the term 'unit of local government' means any of the
39 following:

40 (1) A county.

41 (2) A city.

42 (3) A water and sewer authority created under Article 1 of Chapter 162A of
43 the General Statutes.

- 1 (4) An airport authority whose situs is entirely within a county that has (i) a
2 population of over 120,000 according to the most recent federal
3 decennial census and (ii) an area of less than 200 square miles.
- 4 (5) An airport authority in a county in which there are two incorporated
5 municipalities with a population of more than 65,000 according to the
6 most recent federal decennial census.
- 7 (5a) An airport board or commission authorized by agreement between two
8 cities pursuant to G.S. 63-56, one of which is located partially but not
9 wholly in the county in which the jointly owned airport is located, and
10 where the board or commission provided water and wastewater services
11 off the airport premises before January 1, 1995; provided that the
12 authority granted by this section may be exercised by such a board or
13 commission with respect to water and wastewater systems or
14 improvements only.
- 15 (6) A local school administrative unit (i) that is located in a county that has
16 a population of over 90,000 according to the most recent federal
17 decennial census and (ii) whose board of education is authorized to levy
18 a school tax.
- 19 (7) An area mental health, developmental disabilities, and substance abuse
20 authority, acting in accordance with G.S. 122C-147.
- 21 (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- 22 (9) A baseball park district."

23 Section 4. G.S. 159-148(a) reads as rewritten:

24 "(a) Except as provided in subsection (b) of this section, this Article applies to any
25 contract, agreement, memorandum of understanding, and any other transaction having the
26 force and effect of a contract (other than agreements made in connection with the
27 issuance of revenue bonds, special obligation bonds issued pursuant to Chapter 159I of
28 the General Statutes, or of general obligation bonds additionally secured by a pledge of
29 revenues) made or entered into by a unit of local government (as defined by G.S. 159-
30 7(b) or, in the case of a special obligation bond, as defined in Chapter 159I of the General
31 Statutes), relating to the lease, acquisition, or construction of capital assets, which
32 contract

- 33 (1) Extends for five or more years from the date of the contract, including
34 periods that may be added to the original term through the exercise of
35 options to renew or extend, and
- 36 (2) Obligates the unit to pay sums of money to another, without regard to
37 whether the payee is a party to the contract, and
- 38 (3) Obligates the unit over the full term of the contract, including periods
39 that may be added to the original term through the exercise of options to
40 renew or extend, to the extent of at least five hundred thousand dollars
41 (\$500,000) for baseball park districts and, for other units, to the extent
42 of five hundred thousand dollars (\$500,000) or a sum equal to one tenth

1 of one percent (1/10 of 1%) of the assessed value of property subject to
2 taxation by the contracting unit, whichever is less, and

3 (4) Obligates the unit, expressly or by implication, to exercise its power to
4 levy taxes either to make payments falling due under the contract, or to
5 pay any judgment entered against the unit as a result of the unit's breach
6 of the contract.

7 Contingent obligation shall be included in calculating the value of the contract.
8 Several contracts that are all related to the same undertaking shall be deemed a single
9 contract for the purposes of this Article. When several contracts are considered as a
10 single contract, the term shall be that of the contract having the longest term, and the
11 sums to fall due shall be the total of all sums to fall due under all single contracts in the
12 group."

13 Section 5. This act is effective when it becomes law.