

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 845
SENATE BILL 702

AN ACT TO PROVIDE FOR AN ELECTION TO BE HELD IN THE TOWN OF TARBORO IN EDGECOMBE COUNTY TO DETERMINE WHETHER CERTAIN SECTIONS OF THE CHARTER OF THE TOWN OF TARBORO SHALL BE AMENDED INSOFAR AS THEY PERTAIN TO THE FORM OF GOVERNMENT AND TO THE NUMBER AND ELECTION OF THE MEMBERS OF THE TOWN COUNCIL AND THE ELECTION OF MAYOR OF THE TOWN OF TARBORO.

The General Assembly of North Carolina do enact:

Section 1. Section 160-291 of the General Statutes of North Carolina is hereby amended by adding at the end of said Section the following proviso:

"Provided that in the Town of Tarboro an election may be held under this Article 21, as modified or amended by this Act, for the purpose of submitting to the electors of said town the proposed changes in the number of councilmen and in the manner of election of said councilmen and the manner of the election of the mayor of said town, all as hereinafter provided."

Sec. 2. Section 160-296 of the General Statutes of North Carolina is hereby amended by adding at the end of said Section the following proviso:

"Provided that in the Town of Tarboro the filing of a petition with the Board of Elections of Edgecombe County shall not be necessary or prerequisite to the holding of an election as hereinafter provided."

Sec. 3. Section 160-297 of the General Statutes of North Carolina is hereby amended by adding at the end of said Section the following proviso:

"Provided that in the Town of Tarboro the filing of a petition with the Board of Elections of Edgecombe County shall not be necessary or prerequisite to the holding of an election as hereinafter provided."

Sec. 4. Section 160-298 of the General Statutes of North Carolina is hereby amended by adding at the end of said Section the following proviso:

"Provided that in the Town of Tarboro the County Board of Elections of Edgecombe County shall call an election in accordance with the provisions of this Article within five days after a request for such election is filed with said County Board of Elections by the Town Council of the Town of Tarboro, provided such request is filed with said County Board of Elections prior to January 1, 1969, for the purpose of submitting to the electors of said town the proposed changes and amendments hereinafter set forth. If

such an election is so requested, the Board of Elections shall cause notice of such election to be given at least once a week for four weeks in some newspaper of general circulation in Edgecombe County, and the date of such election shall be fixed by the Board not later than 40 days from the receipt of such a request. The notice shall be signed by the Chairman of the County Board of Elections, and the cost of publication thereof and other costs of the election paid by the Town of Tarboro. The election shall be held under, and governed and controlled by, the laws in force at the time of such election governing regular elections of the Town of Tarboro, and the returns shall be canvassed and the results determined in accordance with such laws."

Sec. 5. Section 160-300 of the General Statutes of North Carolina is hereby amended by adding at the end of said Section the following proviso:

"Provided that in the Town of Tarboro all ballots used in the election shall contain the information and be substantially in the form provided for in the following Section."

Sec. 6. Section 160-301 of the General Statutes of North Carolina is hereby amended by adding at the end the following proviso:

"Provided that in the Town of Tarboro, the ballots shall be printed substantially as follows:

SPECIAL MUNICIPAL ELECTION

To vote for either plan or form of government make a cross in the appropriate square to the left of the form of your choice.

[] For the amending of the Charter of the Town of Tarboro to provide for the Town Manager Form of Government, with seven Town Councilmen elected at large, with a Mayor elected by the Councilmen from among their own number, and a Town Manager appointed by the Town Council.

[] For the retention of the Present Form of Government, with a Mayor elected at large, eight Councilmen elected according to wards, and a Town Manager appointed by the Town Council, as presently provided in the Town Charter."

Sec. 7. If the majority of the electors of the Town of Tarboro voting at the election called and conducted, as hereinabove provided, vote "For the amending of the Charter of the Town of Tarboro to provide for the Town Manager Form of Government, with seven Town Councilmen elected at large, with a Mayor elected by the Councilmen from among their own number, and a Town Manager appointed by the Town Council," as determined by the Board of Canvassers, Chapter 531 of the 1967 Session Laws of North Carolina, being the Charter of the Town of Tarboro, shall be amended as follows:

a. Sec. 2.2 of said Chapter shall be rescinded.

b. Sec. 2.3 of said Chapter shall be rescinded.

c. Sec. 3.1 of said Chapter shall be amended and rewritten to read as follows:

follows:

"Sec. 3.1. Composition of Town Council. The Town Council shall consist of seven members to be elected by and from the qualified voters of the Town in the manner provided by Article IV. All the legislative and policy making powers of the Town shall be vested in the Town Council."

d. Sec. 3.2 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the Town Council from among its own members and shall hold office during the term for which he has been elected to the Town Council as hereinafter provided in Section 3.5. The Mayor shall be the official head of the Town government and, when present, shall preside at all meetings of the Town Council. The Mayor shall have the same power as the other members of the Town Council to vote upon all matters coming before it, but shall have no power of veto. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council. In the absence of both the Mayor and Mayor Pro Tempore from any meeting, a Chairman Pro Tempore shall be chosen and preside at said meeting."

e. Sec. 3.3 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) The members of the Town Council and the member thereof elected Mayor as herein provided shall serve for terms of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualified.

"(b) No person shall be eligible to be a candidate or be elected as a member of the Town Council or to serve in such capacity, unless he is a resident and qualified voter of the Town. Removal of residence of any Councilman from the Town shall ipso facto constitute a removal of such Councilman from office and create a vacancy therein.

"(c) Any vacancy occurring in the office of Councilman of the Councilman elected as Mayor as herein provided shall also automatically and immediately constitute a vacancy in the office of Mayor and the vacancies in each of such offices shall be filled as hereinafter provided.

"(d) If any elected Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Councilman so appointed shall have the same authority and powers as if regularly elected. If any Mayor elected as herein provided shall refuse to qualify, or if there shall be any vacancy in the office of Mayor after election and qualification, the remaining members of the Town Council shall appoint from their own number a successor for the unexpired term of Mayor. Any Mayor so appointed shall have the same authority and powers as if regularly elected."

f. Sec. 3.5 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 3.5. Organization of Board; Election of Mayor; Oaths of Office. The Town Council shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, each Councilman shall take and subscribe before the Town Clerk, a magistrate, or the Clerk of Superior Court, and have entered upon the minutes of the Council the following oath of office: 'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Councilman of the Town of Tarboro, on which I am about to enter, according to my best skill and ability; so help me, God.'

"The Town Council shall thereupon be organized by the choice from its members of a Mayor, who shall hold his office during the term for which he was elected a member of the Town Council, and a Mayor Pro Tempore, who shall hold his office during the pleasure of the Town Council. Before entering upon his office the Mayor shall take and subscribe before the Town Clerk, a magistrate, or the Clerk of Superior Court, and have entered upon the minutes of the Council, the following oath of office: 'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Mayor of the Town of Tarboro, on which I am about to enter, according to my best skill and ability; so help me, God.'

"The organization of the Town Council shall take place as aforesaid, notwithstanding the absence, death, refusal to serve, or non-election of one or more of the members: Provided, that at least four of the persons entitled to be members of the Town Council are present and make oath as aforesaid. Any member entitled to make the aforesaid oath, who was not present at the time fixed therefor, may make oath at any time thereafter."

g. Sec. 3.7 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 3.7. Quorum; Votes. (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

"(b) The affirmative votes of a majority of the members of the Town Council present shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting."

h. Sec. 4.1 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 4.1. Regular Municipal Elections. The regular municipal elections shall be held on Tuesday after the first Monday in May of each odd-numbered year. In each election year, there shall be elected by and from the qualified voters of the Town voting

at large seven Councilmen, each to serve for a term of two years or until his successor is elected and qualified."

i. Sec. 4.2 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 4.2. Voting. Each voter shall be required to vote for seven candidates for Councilman in accordance with Section 163-175(6) of the General Statutes of North Carolina. The seven candidates for Councilman who receive the largest number of votes cast for Councilman shall be declared elected."

j. Sec. 4.3 of said Chapter shall be amended and rewritten to read as follows:

"Sec. 4.3. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Councilman, in order to have his name appear on the official ballot, shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than 60 days and not later than five o'clock p.m. on the third Friday preceding the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), and shall be substantially in the following form: 'I, _____, do hereby give notice that I am a candidate for election to the office of Councilman of the Town of Tarboro, to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Tarboro, residing at _____.

Witness: _____ (Signature) _____
_____ (Date) _____."

Sec. 8. If the amendments to Chapter 531 of the 1967 Session Laws of North Carolina, being the Charter of the Town of Tarboro, shall become effective pursuant to Section 7 of this Act, the duly elected, qualified, and acting officers of the Town of Tarboro shall continue to hold and continue to execute all the duties and authority of their respective offices until the election at the regular municipal election to be held in the Town of Tarboro on Tuesday after the first Monday in May, 1969, and the subsequent qualification of their respective successors in office pursuant to said amendments.

Sec. 9. If the majority of the electors of the Town of Tarboro voting at the election called and conducted, as hereinabove provided, vote "For the retention of the Present Form of Government, with a Mayor elected at large, eight Councilmen elected according to wards, and a Town Manager appointed by the Town Council, as presently provided in the Town Charter," as determined by the Board of Canvassers, said Chapter 531 shall not be amended and shall remain in full force and effect.

Sec. 10. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 11. This Act shall become effective from and after its ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1967.