GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H   D

HOUSE BILL 1158*
PROPOSED COMMITTEE SUBSTITUTE H1158-PCS40223-ST-99

Short Title: Morganton Charter Amendment.	(Local)

Sponsors:

Referred to:

May 21, 2014

1   A BILL TO BE ENTITLED
2 AN ACT AMENDING THE CHARTER OF THE CITY OF MORGANTON CONCERNING
3   THE PROCEDURE FOR REMOVING THE MAYOR AND MEMBERS OF THE CITY
4   COUNCIL FROM OFFICE AND MAKING CHANGES RELATED TO THE METHOD
5   AND TIME OF MUNICIPAL ELECTIONS.
6 The General Assembly of North Carolina enacts:
7   **SECTION 1.** Article III of the Charter of the City of Morganton, being Chapter
8 180 of the 1975 Session Laws, as amended, reads as rewritten:
9   "ARTICLE III.
10   "ELECTIONS.
11   …
12   "Sec. 3.13. Method of election. – The Mayor and members of the Council shall be elected
13 by the nonpartisan ~~election and runoff election~~ plurality method as provided in
14 ~~G.S. 163-290(a)(4).~~G.S. 163-292.
15   "Sec. 3.14. Time of election. – Elections shall be held biennially on the ~~fourth Tuesday~~
16 ~~before the Tuesday after the first Monday in November beginning in 1975 and runoff elections,~~
17 ~~if required, shall be held on~~ Tuesday after the first Monday in ~~November.~~November of
18 odd-numbered years.
19   …
20   "Sec. 3.21. Officials subject to recall. – The Mayor ~~or a member~~ and members of the
21 Council shall be subject to removal pursuant to this Chapter. An official may be removed upon
22 the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on
23 the question of removal at a recall election. No official may be subject to recall during the first
24 ~~year or the last six months of his term of office.~~12 months after the beginning of that official's
25 term of office or within the 12 months before the expiration of that official's term of office.
26 Additionally, no official may be subject of a recall election more than once per term of office.
27   "Sec. 3.22. Petition; procedure. – ~~A recall petition shall be filed with the City of Morganton~~
28 ~~Board of Elections. A petition to recall the Mayor or a council member shall bear the signatures~~
29 ~~of qualified voters of the City equal in number to at least twenty-five percent (25%) of the~~
30 ~~registered voters of the City qualified to vote in the last preceding general municipal~~
31 ~~election.~~(a) Any registered voter of the City may make and file with the Board of Elections of
32 Burke County, through delivery to the supervisor of elections, an affidavit containing the name
33 of the official whose removal is sought and a statement of the grounds alleged for the official's
34 removal. The cause for removal must relate to the misfeasance, malfeasance, or nonfeasance of
35 the official or for personal misconduct that brings the office into disrepute.

1   (b)   The supervisor of elections shall thereupon deliver to the registered voter making
2   the affidavit copies of petition blanks for demanding the removal printed forms of which the
3   supervisor of elections shall keep on hand. The blanks shall be issued by the supervisor of
4   elections with his or her signature thereto attached, shall be dated and addressed to the Board of
5   Elections of Burke County, shall indicate the registered voter to whom issued, and shall state
6   the name of the official whose removal is sought.
7   (c)   A copy of the petition shall be promptly delivered to the City Manager, who shall
8   enter the copy of the petition in a record book kept for that purpose in the office of the City
9   Manager. A recall petition to be effective must be returned and filed with the supervisor of
10 elections within 30 days after the filing of the registered voter's affidavit and to be sufficient
11 must bear the signature of registered voters of the City equal in number to twenty-five percent
12 (25%) of the registered voters of the City as shown by the registration records of the last
13 preceding general municipal election.
14   (d)   The signatures to the petition need not be on one petition paper, but each signer
15 shall add to the signature that signer's residence address. One or more of the signers of the
16 petition shall make oath before an officer competent to administer oaths that the statements
17 therein made are true, as that signer believes, and that each signature to the paper appended is
18 the genuine signature of the person whose name it purports to be.
19   (e)   ~~The City of Morganton~~ Within 20 days after the filing of the petition, the Board of
20 Elections shall verify the petition signatures. If a sufficient recall petition is submitted, the ~~City~~
21 ~~of Morganton~~ Board of Elections shall certify its sufficiency to the ~~Council, and~~ Council, and
22 shall notify the official whose removal is sought of the action. If the official whose removal is
23 sought does not resign within five days after receiving notice from the Board of Elections, the
24 Council shall adopt a resolution calling for a recall election to be held not less than forty-five
25 (45) days nor more than ninety (90) days after the date the petition has been certified to the
26 Council. ~~The election may be held alone or at the same time as any other general or special~~
27 ~~election within the period. The City of Morganton Board of Elections shall conduct the recall~~
28 ~~election.~~
29   (f)   The recall election may be held at the same time as any other general or special
30 election within the time period provided for in subsection (e) of this section. If no other general
31 or special election is to be held within the time period provided for in subsection (e) of this
32 section, the Council shall call for the special recall election to be held within that time period.
33   (g)   The proposition submitted to the voters shall be substantially in the following form:
34   "[ ] FOR   [ ] AGAINST
35   The recall of [name of official]."
36   (h)   All registered voters of the City of Morganton are eligible to vote in an election to
37 recall the official subject to the recall petition.
38   "Sec. 3.23. Effect of recall election. – If less than a majority of the votes cast on the
39 question are ~~against~~ for the official's recall, ~~he~~ the official shall continue in office. If a majority
40 of the votes cast on the question are for the recall of the official, ~~he~~ the official is removed from
41 office on the date the ~~City of Morganton~~ Burke County Board of Elections certifies the results
42 of the recall election. A vacancy created by the removal of the Mayor or a member of the
43 Council ~~or the Mayor~~ shall be filled as provided in Section 2.5 or Section 2.14 of this Charter.
44 An official who was removed by the voters as the result of a recall election, or who resigned
45 after a sufficient petition for the official's recall has been submitted to the Board of Elections,
46 shall not be eligible for appointment to fill the vacancy caused by the official's removal or
47 resignation.
48   "Sec. 3.24. through 3.30. Reserved."
49   SECTION 2. This act is effective July 1, 2014, and applies to affidavits and
50 petitions filed on or after that date.