

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 389
Finance Committee Substitute Adopted 4/3/97

Short Title: Baseball Park Districts.

(Public)

Sponsors:

Referred to:

March 13, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA TRIAD METROPOLITAN
3 BASEBALL PARK DISTRICT, TO PROVIDE FOR A REFERENDUM ON
4 BASEBALL PARK FINANCING ON A DATE DESIGNATED BY THE DISTRICT
5 AND TO ALLOW BASEBALL PARK DISTRICTS TO ENTER INTO
6 INSTALLMENT FINANCING AGREEMENTS.

7 The General Assembly of North Carolina enacts:

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

10 "CHARTER OF THE NORTH CAROLINA
11 TRIAD METROPOLITAN BASEBALL PARK DISTRICT.

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

- 15 (1) Enhance the opportunities for recreational entertainment for all North
16 Carolinians;
17 (2) Generate new economic activity in the Triad area, leading to the
18 establishment of many new businesses;

1 (3) Encourage economic development throughout North Carolina by
2 enhancing the State's attractiveness to new and relocated businesses and
3 its attractiveness as a tourist destination; and

4 (4) Provide numerous new jobs for North Carolinians.

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

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

13 (1) 'Authority' means the North Carolina Triad Metropolitan Baseball Park
14 Authority.

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

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

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

28 "Sec. 3. **District Incorporated.** – The inhabitants of the counties listed in this section
29 are a body corporate and politic and a political subdivision of the State under the name
30 'North Carolina Triad Metropolitan Baseball Park District'. The District initially
31 comprises the following counties: Alamance, Caswell, Davidson, Davie, Forsyth,
32 Guilford, Montgomery, Randolph, Rockingham, Stokes, Surry, and Yadkin. If the voters
33 in a county do not vote in favor of the question in Section 8 of this Charter, then upon the
34 certification of the results of the election, that county is removed from the district. The
35 District is a baseball park district.

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

38 (1) The Governor appoints five members, one at-large who shall be the
39 chair of the Authority, one each of whom at the time of appointment
40 were residents of Alamance, Davidson, Forsyth, and Montgomery
41 Counties.

42 (2) The General Assembly appoints five members upon the
43 recommendation of the President Pro Tempore of the Senate, one each

1 of whom at the time of appointment were residents of Caswell, Davie,
2 and Forsyth Counties and two of whom at the time of appointment were
3 residents of Guilford County.

4 (3) The General Assembly appoints five members upon the
5 recommendation of the Speaker of the House of Representatives, one
6 each of whom at the time of appointment were residents of Randolph,
7 Stokes, Surry, Yadkin, and Rockingham Counties.

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

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

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

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

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

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

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

37 (i) If any county is removed from the district as provided by Section 3 of this
38 Charter, any member of the Authority residing in that county is removed, and the
39 appointing authority may appoint a resident of any county remaining in the district to that
40 seat.

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

1 (b) If a member of the Authority, or any member of the immediate family of a
2 member of the Authority, or the employer of a member of the Authority has a direct
3 financial interest in any matter that comes before the Authority, the affected member
4 shall disclose the interest and shall abstain from participating in the discussion of or vote
5 on the matter.

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

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

10 (1) Enter into contracts.

11 (2) Sue and be sued in its own name, and plead and be impleaded.

12 (3) Adopt an official seal.

13 (4) Apply for, accept, receive, and disburse funds and grants made available
14 to it by the United States of America or any agency thereof, the State of
15 North Carolina or any agency thereof, any unit of local government or
16 other political subdivision, and any private entity or person; and accept
17 donations of property. The District may comply with the conditions and
18 requirements respecting any gift, grant, or donation of any property or
19 funds.

20 (5) Employ and compensate such personnel as the Authority determines.
21 The Authority may delegate to any employee of the District the
22 authority to employ, supervise, discipline, or discharge other employees
23 of the District. The District is subject to G.S. 153A-98 with respect to
24 the personnel files of its employees.

25 (6) Contract with consultants and other independent contractors.

26 (7) Contract with and appropriate money to any person, association, or
27 corporation, public or private, in order to carry out any public purpose
28 that the District is authorized by this Charter or other law to engage in.

29 (8) Procure insurance to protect against loss of the District's property or
30 other assets, and against liabilities incurred by the District, the
31 Authority, or any officer, employee, or agent of the District. The
32 District may, pursuant to G.S. 160A-167, provide the defense of any
33 officer or employee of the District.

34 (9) Acquire and maintain administrative offices.

35 (10) Acquire by purchase, lease, gift, eminent domain, or otherwise, or
36 obtain options for the acquisition of, any real property or interest
37 therein, in order to carry out the the powers granted by this section. The
38 District may not acquire property through the exercise of eminent
39 domain until after Major League Baseball has announced approval of
40 the award of a franchise for a location within the District. In exercising
41 the power of eminent domain, the District shall follow the procedures of
42 Chapter 40A of the General Statutes applicable to local public
43 condemnors.

- 1 (11) Sell, lease, exchange, transfer, or otherwise dispose of, or grant options
2 for any such purposes with respect to, any real or personal property or
3 interest therein. In disposing of property or any interest in property, the
4 District may proceed under such procedures as it determines and is not
5 subject to any procedural requirements not included in this Charter.
- 6 (12) Promote award of a Major League Baseball franchise to a location
7 within the District.
- 8 (13) Design, construct, equip, improve, promote, operate, maintain, lease, or
9 contract for the operation and maintenance of a major league baseball
10 park. The baseball park shall be located on a tract of land at least forty
11 percent (40%) of which is located in each of the two most populous
12 counties in the district, according to the most recent decennial federal
13 census. If the Authority resolves that construction of a major league
14 baseball park or any portion thereof must be expedited for good cause as
15 determined by the Authority:
- 16 a. The District is exempt from the following statutes: G.S. 143-
17 128, subsections (a) through (e); G.S. 143-129; 143-131; and
18 143-132; or
- 19 b. The District may contract with the entity that has been awarded
20 the major league baseball franchise for that entity, or an
21 affiliated, parent, or subsidiary entity, to construct the baseball
22 park, with clear title to the baseball park passing to the District at
23 the completion of construction. Construction under this
24 paragraph is not subject to State laws on public contract bidding.
- 25 If the Authority does adopt such a resolution, the Authority shall establish and
26 use alternative methods of contracting that are fair and competitive, in
27 the conclusive judgment of the Authority. The Authority shall use
28 North Carolina based contractors where feasible. The District may
29 contract for the right to name any park or other facility owned by the
30 District, or may include the right to contract for the park's or facility's
31 name in any lease of or contract for the operation of the park or facility.
- 32 (14) Acquire real property or interests in real property for highway
33 improvements that will benefit the major league baseball park, and
34 convey, with or without monetary consideration, such property or
35 interests in property to the Department of Transportation. The District
36 may not acquire property for highway improvements through the
37 exercise of eminent domain until after Major League Baseball has
38 announced approval of the award of a franchise for a location within the
39 District. In the acquisition by eminent domain of such real property or
40 interests in real property, the District may use the procedures of Article
41 9 of Chapter 136 of the General Statutes. For the purpose of this
42 subdivision, whenever the words 'Department of Transportation' appear
43 in Article 9, they are deemed to include the District or Authority, and

1 whenever the words 'Administrator', 'Administrator of Highways',
2 'Administrator of the Department of Transportation', or 'Chairman of the
3 Department of Transportation' appear in Article 9, they are deemed to
4 include an appropriate official of the District as designated by the
5 Authority.

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

7 (16) Enter into partnerships, joint ventures, common ownership, operating
8 agreements, and other arrangements with other persons to further
9 District purposes.

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

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

15 "Sec. 8. **District Taxes.** – (a) Authorization. – The Authority may, by resolution,
16 subject to the conditions set out in this subsection, levy a temporary local sales and use
17 tax at the rate of one percent (1%) within the District as provided in this section. Before
18 it may adopt such a resolution, however, two conditions must be met: (i) Major League
19 Baseball must have announced approval of the award of a franchise for a location within
20 the District no later than December 31, 2001, and (ii) the District's voters must have
21 approved the levy of the tax in a referendum called and held for that purpose.

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

36 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
37 Statutes, or both may be used in accordance with rules prescribed by the State Board of
38 Elections. The question to be presented on the ballots or voting systems shall be as
39 follows, with the insertion of the name of the appropriate county:

40 **'MAJOR LEAGUE BASEBALL PARK INITIATIVE**

41 **[] YES [] NO**

42 When Major League Baseball has announced approval of a major league baseball
43 franchise for a location within the North Carolina Triad Metropolitan Baseball Park

1 District, may ____ County which is currently in the District help finance no more than
2 two-thirds of the cost of a major league baseball park through levy of a temporary one
3 percent (1%) sales and use tax within the counties remaining in the District, for no longer
4 than one year?'

5 The results of the referendum shall be canvassed and declared as provided by law for
6 elections of State officers; the results of the referendum shall be certified by the State
7 Board of Elections to the Authority in the manner and at the time provided by the general
8 election laws of the State for certifications of State elections. If a majority of persons
9 voting in the referendum in one or more counties vote in favor of levying the tax, the
10 issue is approved. The votes shall be tallied separately in each county in the District. As
11 provided in Section 3 of this act, any county that does not vote in favor of the question is
12 removed from the District, and the tax is imposed in the District consisting of the
13 counties that have approved the levy.

14 (c) Scope; Administration. – Except as provided in this section, the adoption, levy,
15 scope, and collection of the tax shall be in accordance with Article 39 of Chapter 105 of
16 the General Statutes as if the District were a county. The Secretary of Revenue shall
17 distribute the net proceeds of the tax to the Authority.

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

22 (e) Use of Proceeds. – The Authority may use the proceeds of a tax levied pursuant to
23 this section for any authorized activities of the district. Any of these proceeds used to
24 design, construct, equip, or improve a major league baseball park as provided in Section
25 6(13) of this Charter must be matched by private funds on the basis of at least one dollar
26 (\$1.00) of private funds used for this purpose for every two dollars (\$2.00) of these
27 proceeds used for this purpose. Any of these proceeds not matched as required in this
28 subsection shall not be used to design, construct, equip, or improve a major league
29 baseball park as provided in Section 6(13) of this Charter.

30 (f) Termination of Tax. – The authority to levy a tax pursuant to this section
31 terminates on the first day of the twelfth month after the effective date of the levy of the
32 tax and cannot be extended for any reason.

33 (g) Refunds After Tax Ends. – If the Secretary of Revenue refunds a tax imposed
34 by this section after the tax has expired and the proceeds of the tax have been distributed
35 to the Authority, the Secretary shall notify the Authority of the amount of the refund.
36 The Authority shall reimburse the Secretary for the amount of the refund.

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

39 "Sec. 10. **Assistance From Local Governments.** – Any county, city or town, or
40 other unit of local government or public authority located within the District may
41 contribute or advance moneys or other assets or services to the District. The District may
42 reimburse a local government or public authority for any such advance once it is

1 receiving the proceeds of any tax levied by it pursuant to this Charter or otherwise has
2 funds available to do so.

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

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

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

9 **"CHAPTER 160C.**

10 **"BASEBALL PARK DISTRICTS.**

11 **"§ 160C-1. Baseball park districts.**

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

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

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

- 17 (1) A county.
- 18 (2) A city.
- 19 (3) A water and sewer authority created under Article 1 of Chapter 162A of
20 the General Statutes.
- 21 (4) An airport authority whose situs is entirely within a county that has (i) a
22 population of over 120,000 according to the most recent federal
23 decennial census and (ii) an area of less than 200 square miles.
- 24 (5) An airport authority in a county in which there are two incorporated
25 municipalities with a population of more than 65,000 according to the
26 most recent federal decennial census.
- 27 (5a) An airport board or commission authorized by agreement between two
28 cities pursuant to G.S. 63-56, one of which is located partially but not
29 wholly in the county in which the jointly owned airport is located, and
30 where the board or commission provided water and wastewater services
31 off the airport premises before January 1, 1995; provided that the
32 authority granted by this section may be exercised by such a board or
33 commission with respect to water and wastewater systems or
34 improvements only.
- 35 (6) A local school administrative unit (i) that is located in a county that has
36 a population of over 90,000 according to the most recent federal
37 decennial census and (ii) whose board of education is authorized to levy
38 a school tax.
- 39 (7) An area mental health, developmental disabilities, and substance abuse
40 authority, acting in accordance with G.S. 122C-147.
- 41 (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- 42 (9) A baseball park district."

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

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

- 10 (1) Extends for five or more years from the date of the contract, including
11 periods that may be added to the original term through the exercise of
12 options to renew or extend, and
13 (2) Obligates the unit to pay sums of money to another, without regard to
14 whether the payee is a party to the contract, and
15 (3) Obligates the unit over the full term of the contract, including periods
16 that may be added to the original term through the exercise of options to
17 renew or extend, to the extent of at least five hundred thousand dollars
18 (\$500,000) for baseball park districts and, for other units, to the extent
19 of five hundred thousand dollars (\$500,000) or a sum equal to one tenth
20 of one percent (1/10 of 1%) of the assessed value of property subject to
21 taxation by the contracting unit, whichever is less, and
22 (4) Obligates the unit, expressly or by implication, to exercise its power to
23 levy taxes either to make payments falling due under the contract, or to
24 pay any judgment entered against the unit as a result of the unit's breach
25 of the contract.

26 Contingent obligation shall be included in calculating the value of the contract.
27 Several contracts that are all related to the same undertaking shall be deemed a single
28 contract for the purposes of this Article. When several contracts are considered as a
29 single contract, the term shall be that of the contract having the longest term, and the
30 sums to fall due shall be the total of all sums to fall due under all single contracts in the
31 group."

32 Section 5. Notwithstanding G.S. 105-259, the Department of Revenue may
33 furnish to the finance officer of the North Carolina Triad Metropolitan Baseball Park
34 Authority information on the sales and use tax levied by that Authority.

35 Section 6. This act is effective when it becomes law.