



# HOUSE BILL 392: Fayetteville Charter/PWC Changes.

2016-2017 General Assembly

<b>Committee:</b>	Senate Finance	<b>Date:</b>	June 24, 2016
<b>Introduced by:</b>	Reps. Szoka, Floyd, Glazier, Lucas	<b>Prepared by:</b>	Greg Roney
<b>Analysis of:</b>	PCS to Fourth Edition H392-CSTM-61		Committee Counsel

**SUMMARY:** *House Bill 392 would amend the Charter of the City of Fayetteville to make changes related to the membership and operation of the Public Works Commission.*

*The Proposed Committee Substitute (PCS) for House Bill 392 makes the following changes:*

- *Corrects a statutory cite.*
- *Adds to section 6A.7: "Not a public utility. – For the purposes of Chapter 62 of the General Statutes, the Commission shall be considered a municipality."*
- *Rewrites section 6A.9 to read: "Title to all vehicles and equipment purchased or otherwise acquired by the Commission and used or employed by the Commission in the discharge of its duties may be held in the name of the Commission. All other real or personal property related to, used or necessary for the operation of the utility systems under the management and control of the Commission (including plants, transmission and distribution mains and lines, other real property, fixtures, appurtenances, inventory, accounts and revenues) shall be and remain in the name of the City of Fayetteville. Nothing in this Chapter shall be construed as conferring upon the Commission any power or authority to convey title or ownership to, sell, lease or otherwise transfer or dispose of any property owned or held in the name of the City of Fayetteville, but under the management and control of the Commission, unless such transaction is approved by resolution of the City Council and is in compliance with the Financing Documents."*

**CURRENT LAW:** The Public Works Commission of the City of Fayetteville (Commission) was created by the General Assembly in 1905 and its provisions are contained in Chapter VI of the Charter of the City of Fayetteville.

The Commission is composed of four members who serve staggered four-year terms. Members are elected by the Fayetteville City Council.

The Commission has the full charge and control over the supervision and management of the electric utility plant, water and sewer services, and collects all rents and profits accruing from those services. The Commission also has control of and supervises the construction, repairing, alteration, or enlargement of the electric light plant, the waterworks plant, and the sewerage plant, with authority to make all necessary contracts related to those plants, except that expenditures and contracts over \$10,000 must have approval from the City Council. The Commission also fixes the rates for water, sewer, and electricity and is authorized to extend its electric, water, and sewer systems anywhere in Cumberland County and to sell those services anywhere in the County.

The Commission's budget must receive approval from the City Council under general law.

Karen Cochrane-Brown  
Director



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# House PCS 392

Page 2

**BILL ANALYSIS:** The PCS would repeal the current provisions related to the Public Works Commission and would establish a new Chapter VIA within the City Charter. The PCS would do the following:

- Provide that the Commission will continue to have 4 members and add a member of the City Council as an additional ex-officio member designated by the Mayor.
- Prohibit members of the Commission from serving more than 2 consecutive terms.
- Clarify that the Commission is a public authority except as provided in Chapter 6A of the Charter or in any Financing Documents.
- Clarify that the Commission may sue or be sued.
- Clarify the powers and duties of the Commission and provide that the Commission does not have authority, absent prior approval by the City Council, to expend funds or offer financial incentives for purposes not related to Commission powers and duties.
- Remove the requirement that the budget must be approved by the City Council.
- Provide that title to real property and fixtures under the management of the Commission is in the name of the City. Title to personal property used by the Commission to discharge duties is in the name of the Commission.
- Provide that the Auditor reports to the City Council and the Commission.
- Enact finance provisions, including provisions for cash reserves, remittances to the City, revenue bonds, and special assessments.
- Specify that Commission contracts for construction or repair work over \$500,000 or purchase of supplies, materials, or equipment for \$90,000 or more must be first approved by a majority vote of City Council and other contracts below those thresholds may be approved by at least three members of the Commission.

**EFFECTIVE DATE:** This act becomes effective July 1, 2016.

*Trina Griffin and Brad Krehely, both with the Legislative Analysis Division, substantially contributed to this summary.*