

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**HOUSE BILL 1197
Committee Substitute Favorable 5/4/07**

Short Title: Statesville Civil Service Change.

(Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF STATESVILLE TO
MODIFY THE POWERS AND DUTIES OF THE CIVIL SERVICE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Statesville, being S.L. 1977-289, as amended by S.L. 1981-799, reads as rewritten:

"CIVIL SERVICE BOARD.

"Sec. 5.1. Members; Term of Office. The Civil Service Board of the City, hereinafter referred to as the 'Board', shall consist of five members. Terms shall begin on the first day of July and expire on the last day of June.

The present members of the Board shall continue to serve until their present terms expire. That person appointed to fill the first term expiring shall be appointed to a three-year term. Of those appointed to the next three terms expiring, one shall serve a one-year term, one shall serve a two-year term, and one shall serve a three-year term. That person appointed to fill the last present term expiring shall serve a three-year term. These staggered terms are to ensure that a majority of the terms shall not expire during the same year. After the expiration of the term of these appointments, all appointments shall be for a three-year term.

"Sec. 5.2. Appointment of Members; Vacancies; Reappointments. All members of the Board shall be appointed by the senior Resident Judge of the Superior Court of the Judicial District of which Iredell County is a part. Vacancies on the Board shall be filled by appointment in the same manner, and any member appointed to fill a vacancy shall serve the remainder of the unexpired term. No member of the Board, after having served a full two or three-year term, shall be eligible for reappointment to the next succeeding term.

"Sec. 5.3. Qualifications; Removal From Office. Any person, other than a member of the City Council, an elective officer, a member or employee of the police or fire department, or an employee of the City, who is a qualified voter in the municipal elections in the City, shall be eligible for membership on the Board; provided that at

1 least two members shall be of a political party different from that of the majority of the
2 Board. Each member of the Board shall take an oath (or affirmation) for the faithful
3 discharge of the duties of his office. The members of the Board shall be subject to
4 removal from office by the senior Resident Superior Court Judge for any cause which,
5 in his discretion, makes such removal in the best interests of the public.

6 "Sec. 5.4. Election of Officers; Duties; Records Open to Public. The Board shall
7 elect from its membership a chairman and a secretary for a term of one year. The
8 chairman shall preside at all meetings of the Board. The secretary shall keep the minutes
9 of the proceedings of the Board and shall be the custodian of all papers and records
10 pertaining to the business of the Board, and shall perform such other duties as the Board
11 may direct. All of the records of the Board shall be open to public inspection, during
12 normal business hours at their place of keeping, except where otherwise prohibited by
13 law.

14 ~~"Sec. 5.5. Powers and Duties. The Board shall establish and fix requirements of~~
15 ~~applicants for employment in the police department and the fire department of the City,~~
16 ~~not contrary to State law. These requirements shall be printed and made available for~~
17 ~~public inspection and for the use of the employees of and applicants for employment in~~
18 ~~such departments. The board shall institute an affirmative action program in locating,~~
19 ~~testing and employing qualified blacks for entry level positions in police and fire~~
20 ~~departments, maintain accurate records and report regularly to city council on progress~~
21 ~~made in complying with federal court order.~~The Board shall hear grievances as to
22 promotions, demotions, suspensions, and terminations of members of the fire and police
23 departments.

24 "Sec. 5.6. Compensation. The members of the Board shall receive as compensation
25 for each meeting the sum of fifteen dollars (\$15.00).

26 "Sec. 5.7. Rooms and Clerical Help. The City shall provide suitable rooms for the
27 Board and shall provide all necessary clerical and stenographic help and all stationery,
28 forms, and other supplies needed by the Board, and shall allow such reasonable use of
29 the facilities of the City ~~for the holding of examinations, and such other use as may be~~
30 necessary for the proper conduct of its affairs.

31 ~~"Sec. 5.8. Examination of Applicants. All applicants for sworn positions in the~~
32 ~~police department and qualified firefighters in the fire department of the City shall be~~
33 ~~subject to an examination by the Board, which examination shall be competitive and~~
34 ~~open to all persons, subject to a reasonable limitation as to age, health, moral character~~
35 ~~and general reputation. The examination shall relate to those matters which will fairly~~
36 ~~test the relative ability of the person examined to discharge in a proper fashion the~~
37 ~~duties of the position which he seeks to be appointed to, and shall include tests of~~
38 ~~physical, mental, and moral qualifications, but no applicant shall be examined~~
39 ~~concerning his political opinions or affiliations. Due regard shall be given by the Board~~
40 ~~in its examination of applicants for positions in the police department and fire~~
41 ~~department to the experience or training of any applicant which may qualify him for the~~
42 ~~duties which he would be called upon to discharge as a member of either department.~~

1 ~~"Sec. 5.9. Notice of Examinations. Notice of the time and place of every~~
2 ~~examination shall be given by the Board by advertisement in some newspaper published~~
3 ~~in the City.~~

4 ~~"Sec. 5.10. Eligibility List; Appointments. The Board shall prepare and keep an~~
5 ~~eligibility list of persons successfully passing its examinations for the positions of~~
6 ~~patrolmen and firefighters. Each person shall be graded according to his respective~~
7 ~~showing upon such examinations, and the Board shall make appointments to vacancies,~~
8 ~~which occur in the departments, on a basis of the grades made by the various applicants~~
9 ~~upon the examinations so given. All examinations given by the Board shall be made~~
10 ~~under the rules and regulations established by the Board.~~

11 ~~All names which remain on the eligibility list for a period of two years shall be~~
12 ~~stricken therefrom; provided, however, any person who becomes eligible for~~
13 ~~appointment to either the police department or fire department, and is given proper~~
14 ~~notification that a vacancy exists, shall have seven days to accept or reject the~~
15 ~~appointment and if he rejects same, his name shall be removed immediately from the~~
16 ~~eligibility list.~~

17 ~~"Sec. 5.11. Appointment of Policemen and Firemen; Responsible to Mayor and~~
18 ~~Council. The Chiefs and members of the Police and Fire Departments shall be appointed~~
19 ~~by a majority vote of the Board.~~

20 ~~The Chiefs and members of the Police and Fire Departments shall be under the~~
21 ~~direction and control of, and shall be directly responsible to, the Mayor and City~~
22 ~~Council or, upon proper delegation, to the City Manager.~~

23 ~~"Sec. 5.12. Promotions. All promotions shall be by competitive examination within~~
24 ~~the departments and shall be made by the respective chiefs, with the approval of the~~
25 ~~Board.~~

26 ~~"Sec. 5.13. Acting Chiefs. Notwithstanding any other section to the contrary, if The~~
27 ~~City Manager shall hire and may terminate the Chiefs of the fire and police~~
28 ~~departments. If a vacancy occurs in the position of Chief and a new Chief is not~~
29 ~~immediately appointed, an acting Chief shall be appointed by the City Manager from~~
30 ~~within the department. The acting Chief shall have all the powers, duties and~~
31 ~~responsibilities as does the Chief. The acting Chief may be removed from office at any~~
32 ~~time by the City Manager, in which case he or she shall be restored to his former~~
33 ~~position.~~

34 ~~"Sec. 5.14. Suspension of Fire and Police Chiefs. The mayor and city council or,~~
35 ~~upon proper delegation, the city manager shall have the authority to suspend, demote or~~
36 ~~terminate from employment the chief of either the police or fire department, but no such~~
37 ~~suspension, demotion or termination shall become final until concurred in by the civil~~
38 ~~service board.~~~~The City Manager shall be responsible for the hiring, firing, and discipline~~
39 ~~of the police and fire Chiefs.~~

40 ~~"Sec. 5.14.1. Hiring Members of Police and Fire Departments; Promotions. The~~
41 ~~Chiefs of the police and fire departments shall hire the members of their respective~~
42 ~~departments. All promotions shall be by competitive examination within the~~
43 ~~departments and shall be made by the respective Chiefs.~~

1 "Sec. 5.15. Suspensions; Demotions; Terminations. The Chief of the police or fire
2 department may suspend, demote, or terminate from employment any member of their
3 respective departments for the infraction of any departmental rules and regulations. The
4 Chief may also suspend a departmental employee during the investigation, hearing, or
5 trial of said employee on any criminal charge, when suspension would be in the best
6 interest of the department; where the suspension is terminated by full reinstatement of
7 the employee, back pay shall be recoverable. Suspensions for an infraction of
8 departmental rules and regulations of more than 15 days at any one time, or one which
9 would make the total number of days suspended exceed 25 during any six-month
10 period; demotions in rank and terminations may be appealed to the Board, upon written
11 request filed with the respective Chief within three days of notification of the
12 disciplinary action taken. The rules and regulations of each department may provide for
13 appeals in the case of all suspensions for infractions of departmental rules and
14 regulations; the Board shall have the power to hear such appeals. Upon notification of
15 an appeal, the Board may make such investigation as it may direct and shall hold a
16 hearing at which the accused shall be given an opportunity to be heard and present
17 evidence in his own behalf. The Board shall have power to subpoena witnesses and
18 compel testimony.

19 ~~The board shall have the authority to suspend, demote in rank, or terminate from~~
20 ~~employment any employee who has appealed.~~ The board shall have the authority to
21 sustain the disciplinary action imposed by the chief or vacate the same or impose such
22 disciplinary action as it may determine; provided that no such suspension, demotion or
23 termination action shall become final until concurred in it is concurred by the city
24 council.

25 ~~Notwithstanding any provisions to the contrary herein, a~~ Any probationary
26 employee of either department may be summarily discharged by the Chief of that
27 department with no right to appeal to the Board.

28 Decisions regarding disciplinary actions made by the Chiefs, where no right to
29 appeal exists, and all decisions of the Board under this section, shall be final and not
30 subject to judicial review.

31 This section shall not apply to terminations due to a reduction in personnel.

32 "Sec. 5.16. Political Activity. No member or employee of the police department or
33 the fire department shall contribute to or take part in any manner, directly or indirectly,
34 in any election or function involving the election of a candidate for municipal office,
35 other than casting his secret ballot.

36 No employee of the police department or the fire department shall seek a political
37 office while employed as a member of either department, and shall not be granted a
38 leave of absence prior to offering for election. Such employee shall automatically be
39 dropped from the payroll of the City on the date the filing fee is paid to the Election
40 Board."

41 **SECTION 2.** This act applies to the City of Statesville only.

42 **SECTION 3.** This act is effective when it becomes law.