

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**HOUSE BILL 1197
Committee Substitute Favorable 5/4/07
Senate State & Local Government Committee Substitute Adopted 6/28/07**

Short Title: Statesville Civil Service Change.

(Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

1 AN ACT AMENDING THE CHARTER OF THE CITY OF STATESVILLE TO
2 MODIFY THE POWERS AND DUTIES OF THE CIVIL SERVICE BOARD.
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4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The Charter of the City of Statesville, being Chapter 289 of the
6 1977 Session Laws, as amended by Chapter 799 of the 1981 Session Laws, reads as
7 rewritten:

"CIVIL SERVICE BOARD.

8
9 "Sec. 5.1. Members; Term of Office. The Civil Service Board of the City,
10 hereinafter referred to as the 'Board', shall consist of five members. Terms shall begin
11 on the first day of July and expire on the last day of June.

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

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

27 "Sec. 5.3. Qualifications; Removal From Office. Any person, other than a member
28 of the City Council, an elective officer, a member or employee of the police or fire

1 department, or an employee of the City, who is a qualified voter in the municipal
2 elections in the City, shall be eligible for membership on the Board; provided that at
3 least two members shall be of a political party different from that of the majority of the
4 Board. Each member of the Board shall take an oath (or affirmation) for the faithful
5 discharge of the duties of his office. The members of the Board shall be subject to
6 removal from office by the senior Resident Superior Court Judge for any cause which,
7 in his discretion, makes such removal in the best interests of the public.

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

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

26 "Sec. 5.5.1. Equal Opportunity. The Board shall maintain a program to insure that all
27 employment decisions made by any person under this section shall be made without
28 regard to race, religion, color, creed, national origin, sex, age, or handicapping
29 condition.

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

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

37 ~~"Sec. 5.8. Examination of Applicants. All applicants for sworn positions in the~~
38 ~~police department and qualified firefighters in the fire department of the City shall be~~
39 ~~subject to an examination by the Board, which examination shall be competitive and~~
40 ~~open to all persons, subject to a reasonable limitation as to age, health, moral character~~
41 ~~and general reputation. The examination shall relate to those matters which will fairly~~
42 ~~test the relative ability of the person examined to discharge in a proper fashion the~~
43 ~~duties of the position which he seeks to be appointed to, and shall include tests of~~
44 ~~physical, mental, and moral qualifications, but no applicant shall be examined~~

1 concerning his political opinions or affiliations. Due regard shall be given by the Board
2 in its examination of applicants for positions in the police department and fire
3 department to the experience or training of any applicant which may qualify him for the
4 duties which he would be called upon to discharge as a member of either department.

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

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

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

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

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

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

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

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

1 "Sec. 5.14.1. Hiring Members of Police and Fire Departments; Promotions. The
2 Chiefs of the police and fire departments shall hire the members of their respective
3 departments. All promotions shall be by competitive examination within the
4 departments and shall be made by the respective Chiefs.

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

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

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

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

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

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

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

- 1 **SECTION 2.** This act applies to the City of Statesville only.
- 2 **SECTION 3.** This act is effective when it becomes law.