

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-112
SENATE BILL 9**

AN ACT TO ALLOW THE APEX TOWN COUNCIL AND MAYOR TO MAKE APPOINTMENTS AND VOTE ON CERTAIN MATTERS REGARDING THE APPOINTEES FOR THE TOWN MANAGER, TOWN ATTORNEY, AND TOWN CLERK FOR THE TOWN OF APEX; TO FURTHER CLARIFY THE PROCESS FOR FILLING VACANCIES ON THE GUILFORD COUNTY BOARD OF EDUCATION; TO REQUIRE THAT MUNICIPAL ELECTIONS FOR ALL MUNICIPALITIES IN MADISON COUNTY BE CONDUCTED ON A PARTISAN BASIS; AND TO AUTHORIZE THE CITIES OF GREENSBORO AND WINSTON-SALEM TO ESTABLISH A CIVIL SERVICE BOARD.

The General Assembly of North Carolina enacts:

PART I. APEX TOWN APPOINTMENTS

SECTION 1.(a) Notwithstanding any provision of Chapter 160A of the General Statutes or the Charter of the Town of Apex, being Chapter 356 of the 1985 Session Laws, as amended by Chapter 63 of the 1987 Session Laws and Town Ordinance No. 05-1115-12 (11-15-05), the following shall apply to the organization and administration of the Town of Apex:

- (1) The Town Manager shall be appointed by Town Council and the Mayor. The Town Manager shall hold office at the pleasure of the Town Council and the Mayor. The Town Council and the Mayor shall determine the compensation for the Town Manager. The Mayor may vote on an appointment for the Town Manager, provided that the Mayor has not also voted to break a tie on that appointment.
- (2) The Town Attorney shall be appointed by the Town Council and the Mayor. The Town Attorney shall hold office at the pleasure of the Town Council and the Mayor. The Town Council and the Mayor shall determine the compensation for the Town Attorney. The Mayor may vote on an appointment for the Town Attorney, provided that the Mayor has not also voted to break a tie on that appointment.
- (3) The Town Clerk shall be appointed by the Town Council and the Mayor. The Town Clerk shall hold office at the pleasure of the Town Council and the Mayor. The Town Council and the Mayor shall determine the compensation for the Town Clerk. The Mayor may vote on an appointment for the Town Clerk, provided that the Mayor has not also voted to break a tie on that appointment.
- (4) In any instance where the Mayor may vote on an appointment under this act, the Mayor may also participate in a vote that is solely regarding the compensation, discipline, or termination of that appointee, provided that the Mayor has not also voted to break a tie on that matter.

SECTION 1.(b) This section is effective when it becomes law, applies to votes taken on or after that date, and expires June 30, 2027.



PART II. GUILFORD BOARD OF EDUCATION VACANCIES

SECTION 2.(a) Section 6 of Chapter 78 of the 1991 Session Laws, as amended by S.L. 2013-361 and S.L. 2023-4, reads as rewritten:

"Sec. 6.(a) Vacancies on the Guilford County Board of Education when the vacating Board member was elected shall be filled as follows:

- (1) The individual appointed to fill a vacancy ~~must~~shall be a qualified voter of Guilford County.
- (2) In instances in which the vacating Board member was elected from within a single member district, the individual appointed shall be a resident of the district where the vacancy exists.
- (3) If the vacating Board member was elected as the nominee of a political party, whether by countywide election or from an electoral district, then the Board shall consult with the county executive committee of that political party. The county political party executive committee shall provide the name of an individual qualified in accordance with subdivisions (1) and (2) of this ~~section~~ subsection in writing within 30 days of the occurrence of the vacancy to the Superintendent of Schools of Guilford County. Whenever only the qualified voters of less than the entire county were eligible to vote for the vacating Board member, the county political party executive committee shall not be required to restrict voting to executive committee members who represent precincts, all or part of which were within the territory of the vacating Board member. If the county political party executive committee recommends an individual in accordance with this subdivision, that individual shall take the oath of office at the next regular meeting of the Board.
- (4) If the county political party executive committee of the political party of which the vacating Board member is a member fails to provide the name of an individual qualified in accordance with ~~subdivisions (1) and (2) of this section~~ subdivision (3) of this subsection within 30 days of the occurrence of the vacancy, the Board may fill the vacancy by vote of a majority of the remaining members of the Board present and voting at the next regular meeting of the Board ~~after occurring more than 30 days of~~ after the occurrence of the vacancy.
- (5) Any person appointed to fill a vacancy in accordance with this subsection shall serve until the next election of members of the Board, at which time the remaining unexpired term of the office in which the vacancy occurred shall be filled by election.

(b) The following shall apply to all vacancies on the Board when the vacating Board member was appointed by the Board:

- (1) The individual appointed to fill a vacancy shall be a qualified voter of Guilford County.
- (2) In instances in which the vacating Board member was appointed from within a single member district, the individual appointed shall be a resident of the district where the vacancy exists.
- (3) If the vacating Board member was appointed by the Board and a nominee of a political party was certified as elected to fill that seat at the time of the last election for that seat, whether by countywide election or from an electoral district, then the Board shall consult with the county executive committee of the political party whose nominee was certified as elected to fill that seat. The county political party executive committee shall provide the name of an individual qualified in accordance with subdivisions (1) and (2) of this

subsection in writing within 30 days of the occurrence of the vacancy to the Superintendent of Schools of Guilford County. Whenever only the qualified voters of less than the entire county are eligible to vote for the seat, the executive committee shall not be required to restrict voting to executive committee members who represent precincts, all or part of which were within the territory of the vacating Board member. If the county political party executive committee recommends an individual in accordance with this subdivision, that individual shall take the oath of office at the next regular meeting of the Board.

- (4) If the county political party executive committee fails to provide the name of an individual qualified in accordance with subdivision (3) of this subsection within 30 days of the occurrence of the vacancy, the Board may fill the vacancy by vote of a majority of the remaining members of the Board present and voting at the next regular meeting of the Board occurring more than 30 days after the occurrence of the vacancy.
- (5) Any person appointed to fill a vacancy in accordance with this subsection shall serve until the next election of members of the Board, at which time the remaining unexpired term of the office in which the vacancy occurred shall be filled by election."

SECTION 2.(b) Except as provided in Section 3 of this act, this section is effective when it becomes law and applies to vacancies existing on or after that date.

SECTION 3.(a) The term of office of any individual appointed by the Guilford County Board of Education to fill a vacancy occurring between December 1, 2022, and the effective date of this act shall expire on the effective date of this act.

SECTION 3.(b) Notwithstanding Section 6(b)(3) of Chapter 78 of the 1991 Session Laws, as amended by S.L. 2013-361, S.L. 2023-4, and this act, for any vacancy occurring as a result of Section 3(a) of this act, the nominee of a county political party executive committee of that political party shall take the oath of office at the next regular meeting of the Guilford County Board of Education following submission of a nomination to the Superintendent of Schools of Guilford County if the individual is nominated by the county political party executive committee within 60 days of the effective date of this act.

PART III. PARTISAN MUNICIPAL ELECTIONS IN MADISON COUNTY

SECTION 4.(a) Section 4 of the Charter of the Town of Hot Springs, being Chapter 210 of the Private Laws of 1929, reads as rewritten:

"Sec. 4. ~~The corporate powers of the town of Hot Springs shall be exercised as heretofore by~~ Regular municipal elections for the officers of the Town of Hot Springs shall be held in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The qualified voters of the Town of Hot Springs shall elect a mayor and a board of aldermen consisting of three members, to be elected in accordance with the general laws regulating elections in cities and towns, and such other officers, agents and employees as may be hereinafter provided for, or chosen by the board of aldermen. The present mayor of the town of Hot Springs shall hold office until the next general election and until his successor is elected and qualified, and the present members of the board of aldermen shall constitute the said board until the expiration of their present term of office and until their successors are elected and qualified, and the said mayor and board of aldermen, as such, shall have the same power and authority heretofore conferred upon them in the area within the present corporate limits of said town and may exercise all such authority within the area mentioned in section three hereof, together with all such additional powers and authority conferred by this act. members. The Town officers shall be elected for two-year terms. The Town officers shall be elected on a partisan basis, as provided in G.S. 163-291."

SECTION 4.(b) This section becomes effective January 1, 2025, and applies to elections held in 2025 and thereafter.

SECTION 5.(a) Section 5 of Article I of the Charter of the Town of Mars Hill, being Chapter 890 of the 1953 Session Laws, as amended by Ord. No. 168 adopted on March 6, 2008, reads as rewritten:

"Sec. 5. The corporate and legislative powers of the Town of Mars Hill shall be vested in ~~and exercised by a mayor and board of alderman, who shall hold office for two years (and until their successors shall be elected and qualified), and who shall be installed in their respective offices on the first Monday in June of the year of their election.~~ aldermen consisting of four members. The mayor shall be elected for a four-year term, and the four aldermen shall be elected for staggered four-year terms. Before entering upon the duties of their respective offices, each shall take an oath of office which shall be signed and recorded in the Town Archives."

SECTION 5.(b) Section 1 of Article VII of the Charter of the Town of Mars Hill, being Chapter 890 of the 1953 Session Laws, as amended by Ord. No. 168 adopted on March 6, 2008, reads as rewritten:

"Section 1. ~~The first election under the provisions of this Act shall be held on the first Tuesday in May, 1953, and biennially thereafter, and at each election held hereunder a Regular municipal elections in the Town of Mars Hill shall be held in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and three four aldermen shall be elected by a majority vote of the qualified citizens of the town; provided, however, that the present office holders shall continue to serve until their successors shall be elected and qualified on a partisan basis, as provided in G.S. 163-291.~~"

SECTION 5.(c) Sections 2 through 12 of Article VII of the Charter of the Town of Mars Hill, being Chapter 890 of the 1953 Session Laws, are repealed.

SECTION 6. Section 3 of the Charter of the Town of Marshall, being Chapter 165 of the Private Laws of 1905, as amended by Chapter 232 of the Private Laws of 1913 and the Town Ordinance adopted on May 5, 1997, reads as rewritten:

"Sec. 3. ~~That the administration and government of said town shall be vested in one principal officer styled the mayor, The qualified voters of the Town of Marshall shall elect a mayor and board of aldermen consisting of three members which mayor and board of aldermen, with all subordinate officers shall have all the powers, privileges and emoluments, and shall be subjected to all the forfeitures, pains and penalties granted under the general laws governing cities and towns of the State of North Carolina, and be subjected to all the provisions thereof not in conflict with the provisions of this act.~~ five members. The mayor shall be elected for a two-year term, and the members of the board of aldermen shall be elected for staggered four-year terms. Regular municipal elections shall be held in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. Town officers shall be elected on a partisan basis, as provided in G.S. 163-291."

SECTION 7. This Part shall have the effect of repealing any conflicting provisions of local or special acts or conflicting local ordinances relating to the nonpartisan municipal elections for any municipalities covered by this act. This act shall not affect the filling of a vacancy in a municipal election that occurs for a seat elected prior to the effective date of this act.

SECTION 8. Except as otherwise provided, this Part is effective when it becomes law and applies to elections held in 2023 and thereafter.

PART IV. CIVIL SERVICE BOARDS FOR THE CITIES OF GREENSBORO AND WINSTON-SALEM

SECTION 9. Chapter VII of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, as amended, is amended by adding a new Subchapter to read: "SUBCHAPTER D. CIVIL SERVICE."

"Sec. 7.45. Civil Service Board.

(a) There is hereby established as a part of government of the City of Greensboro a Civil Service Board which shall have the powers and perform the duties specified in this Subchapter with respect to the classified service of the City of Greensboro as defined in this section. The city manager shall recommend, and the city council shall approve, funding for the operational needs of the Civil Service Board in the city's annual budget.

(b) The Civil Service Board (hereinafter "Board") shall consist of five members who shall be appointed as follows: (i) one member who shall be chosen by the city council at a meeting of the council and who shall serve at the pleasure of the council; (ii) one member who shall be elected by the employees of the City of Greensboro Police Department, as defined in this section, at an election held for that purpose and on a normal city workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to those employees; (iii) one member who shall be elected by the employees of the City of Greensboro Fire Department, as defined in this section, at an election held for that purpose and on a normal city workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to those employees; (iv) one member who shall be chosen by the mutual agreement of the Chief of Police and the Fire Chief; and (v) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the employees of the City of Greensboro Police Department and the employees of the City of Greensboro Fire Department have taken office. If a member is not elected by majority vote of the four other members, the city council shall appoint a member to the Board. Members of the Board shall serve two-year terms. All members of the Board shall be eligible for successive terms, in the same manner in which they were initially selected or elected, and may serve beyond the end of their respective terms until their successors take office. The chair of the Board shall be appointed annually by the city council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation but may be reimbursed for expenses pursuant to policies adopted by the city.

The city council shall, by ordinance not inconsistent with this section, establish the procedure for the election of the representatives of the employees in the City of Greensboro Police Department and the representatives of the employees in the City of Greensboro Fire Department and provide for meeting the expenses for the elections. The members of the Board must all be qualified voters of the City of Greensboro, not employed by the city, or serving on the city council. In the event of a vacancy on the Board, the vacancy shall be filled by the body or group that chooses the member, a successor to whom is to be chosen in the manner provided in this subsection for the selection of the member.

(c) Former employees of the city shall be eligible to serve as members of the Board provided they have been separated from city employment for a period of not less than seven consecutive years prior to becoming members of the Board. No person shall be eligible to serve as a member of the Board if the person, directly or indirectly, through any corporation, partnership, or other entity, or contract, subcontract, or otherwise benefits financially from a business relationship with the city or if the person has an immediate family member or spouse of the immediate family member who, directly or indirectly, through any corporation, partnership, or other entity, or contract, subcontract, or otherwise benefits financially from a business relationship with the city. No person shall engage or benefit, directly or indirectly, from any contractual work or employment with the city for a period of not less than two years following the end of that person's term as a member of the Board.

(d) The city clerk, or the clerk's designee, shall be the Board Secretary and shall perform all required ministerial functions and duties for the Board, including, but not limited to, the electronic recording of and the preparation of minutes of all Board meetings and hearings, the custody of all Board records, and the posting and issuing of meeting notices to members of the Board and the public in accordance with the Open Meetings Law, Article 33C of Chapter 143 of

the General Statutes. The Secretary shall distribute the agenda for regular meetings and the approved minutes for all regular meetings to all classified service employees as defined in this section. Posting the agenda and minutes on an electronic bulletin board or similar location accessible to all employees shall be sufficient compliance with the distribution requirement under this subsection. To assist the Secretary in performing the functions and duties, all Board meetings shall be electronically recorded and transcripts thereof made available to members of the Board upon request and without charge. All other persons shall be entitled to the recordings and records, upon request, except for those items to which disclosure is prohibited by G.S. 160A-168, Chapter 132 of the General Statutes, or other laws governing the privacy or confidentiality of employee or personnel records.

(e) The Board shall meet in January of each year to adopt a regular meeting schedule. The deadline for receiving items for regular Board meetings shall be seven days prior to the meeting. Special meetings may be called by the chair and shall be called upon written request signed by two or more members of the Board and submitted to the Secretary not less than seven days prior to the date of the requested special meeting. The notice for all meetings shall contain a meeting agenda, which shall include a section for other business to hear and consider any other matters related to the Board's functions and duties, and which may be addressed by any member of the Board and by any person in attendance. Within a reasonable time after a meeting, the Board shall supply the city's Director of Human Resources with notification of any actions, reports, or recommendations made by the Board, and the Human Resources Department shall notify affected members of the classified service of actions, reports, and recommendations made by the Board.

(f) No uniform employees of the city shall be prohibited, directed, or discouraged in any manner by a supervisor from wearing that employee's uniform while in attendance at any meeting of the Board.

(g) The classified service of the city shall include all officers and employees of the City of Greensboro Police Department and all officers and employees of the City of Greensboro Fire Department except the Chief of Police, the Deputy Chief of Police, Assistant Chiefs of Police, the Fire Chief, the Deputy Fire Chief, and Assistant Fire Chiefs.

(h) The Board shall make, and may amend, substantive rules for promoting efficiency in the classified service as authorized in subsection (i) of this section. The rules, and any amendments to the rules, shall be submitted to the council for approval and shall be open to public inspection when filed with the council for approval. The council, after giving members of the classified service and citizens of Greensboro an opportunity to be heard at a public hearing, shall act upon the proposed rules and amendments, and the rules and amendments, when approved by a majority vote of the council, shall be in full force and effect. The Board shall also make, and may amend, procedural rules for the conduct of its official proceedings and functions as provided for by this Subchapter. The council may, before approval, amend the rules or amendments to the rules submitted to it for approval.

(i) The rules authorized by subsection (h) of this section, among other things, may provide:

- (1) For the standardization and classification of all positions and employment in the classified service as defined in this section. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions. The city manager, or the city manager's designee, shall consult representative employees in the police and fire departments to establish criteria to be used to fill each position within those respective departments, including lateral entry positions. If only one respective employee is consulted, he or she shall be a representative chosen by the employees of the respective departments. If a group of two or more employees is established for purposes of this subdivision, at least one-half of

the employees shall be chosen by the employees of the respective department. The Board shall have the authority to approve any criteria established and the criteria shall apply only to persons promoted or hired after the effective date of the approval; provided, however, the Board's approval of criteria established shall not apply to hiring or promotional processes initiated prior to the effective date of this Subchapter nor shall it be construed to authorize the Board to make any hiring decisions.

- (2) For temporary or part-time employment to meet the transitory or seasonal needs of the city, except no temporary or part-time employment may occur or continue in violation of applicable State or federal law.
- (3) For the establishment of a probationary period for new employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.
- (4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.
- (5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the person responsible for his or her appointment with the reasons therefore specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Board, in accordance with subsection (k) of this section. The written reasons for the discharge or reduction and any reply in writing thereto by the officer or employee shall be filed with the Director of Human Resources.
- (6) For investigation and keeping a record of the efficiency of officers and employees in the classified service and for requiring markings and reports relative thereto from appointing authorities.

(j) The council, by majority vote of its total membership, the city manager, or the Board, by majority vote of its total membership, may make official investigations concerning the facts with respect to (i) the operation and enforcement of the provisions of this Subchapter, (ii) the rules established pursuant to the authority granted by this Subchapter, and (iii) the condition of the classified service of the city, and may refer such matters to the Board for hearing in accordance with subsection (k) of this section, or for further investigation, as appropriate. Any person or body making any investigation authorized or required by this Subchapter shall have the power to subpoena and require the attendance of witnesses. A copy of the report of the investigation shall be filed with the city clerk and be open for public inspection, subject to the provisions of G.S. 160A-168, Chapter 132 of the General Statutes, or any other law governing the disclosure of public records in this State.

(k) Whenever any member of the classified service is discharged, suspended, reduced in rank, transferred against his or her will, or denied any promotion or raise in pay which he or she would be entitled to, that member shall be entitled to a hearing before the Board to determine whether the action complained of is justified. The Board may also conduct hearings on such matters as may be referred to it pursuant to subsection (j) of this section.

(l) Any member of the classified service who desires a hearing shall file a request for hearing with the city clerk within 10 days after learning of the action or omission of which the member complains, but not before the member has exhausted all remedies provided by the grievance procedures established by ordinance or policy of the city. The grievance procedure shall be concluded within 30 days. If the grievance procedure is not concluded within 30 days, the member may proceed as provided in this subsection. Upon receipt of the request for hearing, the city clerk shall set the matter for hearing before the Board at a date not less than five nor more than 15 days from the clerk's receipt of the request. Except for the time for filing the initial request

for hearing with the Board, the Board may extend the time for taking action for cause or by agreement of the parties to the proceeding. Any member of the classified service who requests a hearing as authorized by this Subchapter shall be entitled to be represented at the hearing by his or her attorney. For purposes of the hearings, the Board is authorized to issue subpoenas for the attendance of witnesses or the production of documents.

(m) At the hearing, the burden of proving the justification of the action or omission complained of shall be upon the city, and the member requesting the hearing shall be entitled to inspect and copy any records upon which the city plans to rely upon at the hearing if the records are requested, in writing, by the member or the member's attorney prior to the day set for the hearing.

(n) Within 10 days after the conclusion of the hearing, the Board shall render its decision in writing. If the Board determines the action or omission complained of is not justified, the Board shall order to rescind whatever action the Board has found to be unjustified and may order the city to take such steps as are necessary for a just conclusion of the matter before the Board. The Board's decision shall contain findings of fact and conclusions and shall be based on competent material and substantial evidence in the record. The Board shall, in writing, immediately inform the city clerk and the member requesting the hearing of the Board's decision.

(o) Within 10 days of receipt of the Board's decision, either party may appeal to the Superior Court Division of the General Court of Justice for Guilford County for a trial de novo. The appeal shall be effected by filing with the Clerk of Superior Court of Guilford County a petition for trial in superior court, setting out the facts upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the Clerk of Superior Court of Guilford County shall issue a civil summons as in regular civil action, and the sheriff of Guilford County shall serve the summons and petition on all parties who did not join in the petition for trial. It shall be sufficient service upon the city for the sheriff to serve the petition and summons upon the city clerk. Therefore, the matter shall proceed to trial as any other civil action.

(p) By a majority vote of those members present and voting at any of its official meetings, the Board may designate independent legal counsel of its choice to advise or represent the Board, or both, on such occasions and in such matters as the majority of those Board members present and voting deem to be appropriate and necessary. The Board shall establish a roster of attorneys from which it may select counsel for the purpose of advising the Board during or in connection with grievance hearings held pursuant to subsection (k) of this section. The list shall be subject to review and approval by the city attorney as to qualifications and fees. The city shall be responsible for the payment of the professional legal services authorized by this subsection. The use of independent counsel for matters other than grievance hearings held pursuant to subsection (k) of this section shall be limited to 20 hours each year. In order to avoid the appearance of any possible conflict of interest, the Office of the City Attorney shall serve as legal advisor to or attorney for the Board, or both, only for those matters or proceedings when specifically requested to do so in a writing that has been signed by no fewer than four members of the Board.

(q) It shall be the duty of the Board to supervise the execution of the provisions of this Subchapter and the rules adopted pursuant to the authority granted by this Subchapter, and it shall be the duty of all persons in the service of the city to comply with the rules and to aid in their enforcement. Willful or deliberate violation of the provisions of this Subchapter or rules adopted as authorized by this Subchapter by any person shall result in the city taking appropriate disciplinary action up to and including dismissal. Any city employee or any city official who threatens or intimidates other employees from exercising their rights under the provisions of this Subchapter or rules adopted as authorized by this Subchapter shall be subject to the city taking appropriate disciplinary action up to and including dismissal."

SECTION 10. Article XVI of the Charter of the City of Winston-Salem, being Chapter 232 of the Private Laws of 1927, as amended, is amended by adding a new section to read:

"Sec. 111.1. Civil Service Board. (a) There is hereby established as a part of the government of the City of Winston-Salem a Civil Service Board which shall have the powers and perform the duties specified in this section with respect to the classified service of the City of Winston-Salem as defined in this section. The city manager shall recommend, and the city council shall approve, funding for the operational needs of the Civil Service Board in the city's annual budget.

(b) The Civil Service Board (hereinafter "Board") shall consist of five members who shall be appointed as follows: (i) one member who shall be chosen by the city council at a meeting of the council and who shall serve at the pleasure of the council; (ii) one member who shall be elected by the employees of the City of Winston-Salem Police Department, as defined in this section, at an election held for that purpose and on a normal city workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to those employees; (iii) one member who shall be elected by the employees of the City of Winston-Salem Fire Department, as defined in this section, at an election held for that purpose and on a normal city workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to those employees; (iv) one member who shall be chosen by the mutual agreement of the Chief of Police and the Fire Chief; and (v) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the City of Winston-Salem Police Department and the City of Winston-Salem Fire Department have taken office. If a member is not elected by majority vote of the four other members, the city council shall appoint a member to the Board. Members of the Board shall serve two-year terms. All members of the Board shall be eligible for successive terms, in the same manner in which they were initially selected or elected, and may serve beyond the end of their respective terms until their successors take office. The chair of the Board shall be appointed annually by the city council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation but may be reimbursed for expenses pursuant to policies adopted by the city. The city council shall, by ordinance not inconsistent with this section, establish the procedure for the election of the representatives of the employees in the City of Winston-Salem Police Department and City of Winston-Salem Fire Department and provide for meeting the expenses for the elections. The members of the Board must all be qualified voters of the City of Winston-Salem, not employed by the city or serving on the city council. In the event of a vacancy on the Board, the vacancy shall be filled by the body or group that chooses the member, a successor to whom is to be chosen in the manner provided in this subsection for the selection of the member.

(c) Former employees of the city shall be eligible to serve as members of the Board provided they have been separated from city employment for a period of not less than seven consecutive years prior to becoming members of the Board. No person shall be eligible to serve as a member of the Board if the person, directly or indirectly, through any corporation, partnership, or other entity, or contract, subcontract, or otherwise benefits financially from a business relationship with the city or if the person has an immediate family member or spouse of the immediate family member who, directly or indirectly, through any corporation, partnership, or other entity, or contract, subcontract, or otherwise benefits financially from a business relationship with the city. No person shall engage or benefit, directly or indirectly, from any contractual work or employment with the city for a period of not less than two years following the end of that person's term as a member of the Board.

(d) The city clerk, or the clerk's designee, shall be the Board Secretary and shall perform all required ministerial functions and duties for the Board, including, but not limited to, the electronic recording of and the preparation of minutes of all Board meetings and hearings, the

custody of all Board records, and the posting and issuing of meeting notices to members of the Board and the public in accordance with Article 33C of Chapter 143 of the General Statutes. The Secretary shall distribute the agenda for regular meetings and the approved minutes for all regular meetings to all classified service employees as defined in this section. Posting the agenda and minutes on an electronic bulletin board or similar location accessible to all employees shall be sufficient compliance with the distribution requirement under this subsection. To assist the Secretary in performing the functions and duties, all Board meetings shall be electronically recorded and transcripts thereof made available to members of the Board upon request and without charge. All other persons shall be entitled to the recordings and records, upon request, except for those items to which disclosure is prohibited by G.S. 160A-168, Chapter 132 of the General Statutes, or other laws governing the privacy or confidentiality of employee or personnel records.

(e) The Board shall meet in January of each year to adopt a regular meeting schedule. The deadline for receiving items for regular Board meetings shall be seven days prior to the meeting. Special meetings may be called by the chair and shall be called upon written request signed by two or more members of the Board and submitted to the Secretary not less than seven days prior to the date of the requested special meeting. The notice for all meetings shall contain a meeting agenda, which shall include a section for other business to hear and consider any other matters related to the Board's functions and duties and which may be addressed by any member of the Board and by any person in attendance. Within a reasonable time after a meeting, the Board shall supply the city's Director of Human Resources with notification of any actions, reports, or recommendations made by the Board, and the Human Resources Department shall notify affected members of the classified service of actions, reports, and recommendations made by the Board.

(f) No uniform employees of the city shall be prohibited, directed, or discouraged in any manner by a supervisor from wearing that employee's uniform while in attendance at any meeting of the Board.

(g) The classified service of the city shall include all officers and employees of the City of Winston-Salem Police Department and all officers and employees of the City of Winston-Salem Fire Department except the Chief of Police, the Deputy Chief of Police, Assistant Chiefs of Police, the Fire Chief, the Deputy Fire Chief, and Assistant Fire Chiefs.

(h) The Board shall make, and may amend, substantive rules for promoting efficiency in the classified service as authorized in subsection (i) of this section. The rules, and any amendments to the rules, shall be submitted to the council for approval and shall be open to public inspection when filed with the council for approval. The council, after giving members of the classified service and citizens of Winston-Salem an opportunity to be heard at a public hearing, shall act upon the proposed rules and amendments, and the rules and amendments, when approved by a majority vote of the council, shall be in full force and effect. The Board shall also make, and may amend, procedural rules for the conduct of its official proceedings and functions as provided for by this section. The council may, before approval, amend the rules or amendments to the rules submitted to it for approval.

(i) The rules authorized by subsection (h) of this section, among other things, may provide:

- (1) For the standardization and classification of all positions and employment in the classified service as defined in this section. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions. The city manager, or the city manager's designee, shall consult representative employees in the police and fire departments to establish criteria to be used to fill each position within those respective departments, including lateral entry positions. If only one respective employee is consulted, he or she shall be a representative chosen

by the employees of the respective departments. If a group of two or more employees is established for purposes of this subdivision, at least one-half of the employees shall be chosen by the employees of the respective department. The Board shall have the authority to approve any criteria established and the criteria shall apply only to persons promoted or hired after the effective date of the approval; provided, however, the Board's approval of criteria established shall not apply to hiring or promotional processes initiated prior to the effective date of this section nor shall it be construed to authorize the Board to make any hiring decisions.

- (2) For temporary or part-time employment to meet the transitory or seasonal needs of the city, except no temporary or part-time employment may occur or continue in violation of applicable State or federal law.
- (3) For the establishment of a probationary period for new employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.
- (4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.
- (5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the person responsible for his or her appointment with the reasons therefore specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Board, in accordance with subsection (k) of this section. The written reasons for the discharge or reduction and any reply in writing thereto by the officer or employee shall be filed with the Director of Human Resources.
- (6) For investigation and keeping a record of the efficiency of officers and employees in the classified service and for requiring markings and reports relative thereto from appointing authorities.

(j) The council, by majority vote of its total membership, the city manager, or the Board, by majority vote of its total membership, may make official investigations concerning the facts with respect to (i) the operation and enforcement of the provisions of this section, (ii) the rules established pursuant to the authority granted by this section, and (iii) the condition of the classified service of the city, and may refer such matters to the Board for hearing in accordance with subsection (k) of this section, or for further investigation, as appropriate. Any person or body making any investigation authorized or required by this section shall have the power to subpoena and require the attendance of witnesses. A copy of the report of the investigation shall be filed with the city clerk and shall be open for public inspection, subject to the provisions of G.S. 160A-168, Chapter 132 of the General Statutes, or any other law governing the disclosure of public records in this State.

(k) Whenever any member of the classified service is discharged, suspended, reduced in rank, transferred against his or her will, or denied any promotion or raise in pay which he or she would be entitled to, that member shall be entitled to a hearing before the Board to determine whether the action complained of is justified. The Board may also conduct hearings on such matters as may be referred to it pursuant to subsection (j) of this section.

(l) Any member of the classified service who desires a hearing shall file a request for hearing with the city clerk within 1,030 days. If the grievance procedure is not concluded within 30 days, the member may proceed as provided in this subsection. Upon receipt of the request for hearing, the city clerk shall set the matter for hearing before the Board at a date not less than five nor more than 15 days from the clerk's receipt of the request. Except for the time for filing the initial request for hearing with the Board, the Board may extend the time for taking action for

cause or by agreement of the parties to the proceeding. Any member of the classified service of the city who requests a hearing as authorized by this section shall be entitled to be represented at the hearing by his or her attorney. For purposes of the hearings, the Board is authorized to issue subpoenas for the attendance of witnesses or the production of documents.

(m) At the hearing, the burden of proving the justification of the action or omission complained of shall be upon the city, and the member requesting the hearing shall be entitled to inspect and copy any records upon which the city plans to rely upon at the hearing if the records are requested, in writing, by the member or the member's attorney prior to the day set for the hearing.

(n) Within 10 days after the conclusion of the hearing, the Board shall render its decision in writing. If the Board determines the action or omission complained of is not justified, the Board shall order to rescind whatever action the Board has found to be unjustified and may order the city to take such steps as are necessary for a just conclusion of the matter before the Board. The Board's decision shall contain findings of fact and conclusions and shall be based on competent material and substantial evidence in the record. The Board shall, in writing, immediately inform the city clerk and the member requesting the hearing of the Board's decision.

(o) Within 10 days of receipt of the Board's decision, either party may appeal to the Superior Court Division of the General Court of Justice for Forsyth County for a trial de novo. The appeal shall be effected by filing with the Clerk of Superior Court of Forsyth County a petition for trial in superior court, setting out the facts upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the Clerk of Superior Court of Forsyth County shall issue a civil summons as in regular civil action, and the sheriff of Forsyth County shall serve the summons and petition on all parties who did not join in the petition for trial. It shall be sufficient service upon the city for the sheriff to serve the petition and summons upon the city clerk. Therefore, the matter shall proceed to trial as any other civil action.

(p) By a majority vote of those members present and voting at any of its official meetings, the Board may designate independent legal counsel of its choice to advise or represent the Board, or both, on such occasions and in such matters as the majority of those Board members present and voting deem to be appropriate and necessary. The Board shall establish a roster of attorneys from which it may select counsel for the purpose of advising the Board during or in connection with grievance hearings held pursuant to subsection (k) of this section. The list shall be subject to review and approval by the city attorney as to qualifications and fees. The city shall be responsible for the payment of the professional legal services authorized by this subsection. The use of independent counsel for matters other than grievance hearings held pursuant to subsection (k) of this section shall be limited to 20 hours each year. In order to avoid the appearance of any possible conflict of interest, the Office of the City Attorney shall serve as legal advisor to or attorney for the Board, or both, only for those matters or proceedings when specifically requested to do so in a writing that has been signed by no fewer than four members of the Board.

(q) It shall be the duty of the Board to supervise the execution of the provisions of this section and the rules adopted pursuant to the authority granted by this section, and it shall be the duty of all persons in the service of the city to comply with the rules and to aid in their enforcement. Willful or deliberate violation of the provisions of this section or rules adopted as authorized by this section by any person shall result in the city taking appropriate disciplinary action up to and including dismissal. Any city employee or any city official who threatens or intimidates other employees from exercising their rights under the provisions of this section or rules adopted as authorized by this section shall be subject to the city taking appropriate disciplinary action up to and including dismissal."

SECTION 11. If any provision of this Part shall for any reason be held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portion of this Part.

SECTION 12. All laws, rules, or clauses in conflict with the provisions of this Part are hereby superseded or repealed as appropriate.

PART V. EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of August, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives