

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 9
State and Local Government Committee Substitute Adopted 3/14/23
PROPOSED HOUSE COMMITTEE SUBSTITUTE S9-PCS45352-ST-47

Short Title: Apex Town Council Appointments.

(Local)

Sponsors:

Referred to:

January 26, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CHARTER OF THE TOWN OF APEX TO ALLOW THE TOWN
3 COUNCIL TO APPOINT THE TOWN CLERK; AND TO ALLOW THE MAYOR TO
4 VOTE ON THE APPOINTMENTS OF THE TOWN MANAGER, TOWN ATTORNEY,
5 AND TOWN CLERK.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article IV of the Charter of the Town of Apex, being Chapter 356 of
8 the 1985 Session Laws, as amended by Chapter 63 of the 1987 Session Laws and Town
9 Ordinance No. 05-1115-12 (11-15-05), reads as rewritten:

10 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

11 "Sec. 4.1. Form of Government. The Town shall operate under the Council-Manager form of
12 government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

13 "Sec. 4.2. Town Manager. The ~~Board of Commissioners~~ Town Council shall appoint a Town
14 Manager who shall be the administrative head of Town government, and who shall be responsible
15 to the ~~Board~~ Town Council for the proper administration of the affairs of the Town. The Town
16 Manager shall hold office at the pleasure of the ~~Board of Commissioners, Town Council and~~
17 Mayor and shall receive such compensation as the ~~Board~~ Town Council and Mayor shall
18 determine. Notwithstanding Sec. 2.2 of this Charter, the Mayor may vote on an appointment
19 under this section, provided the Mayor has not also voted to break a tie on that appointment. In
20 exercising his duties as chief administrator, the Town Manager shall:

21 (1) Appoint and suspend or remove all Town officers and employees not elected by the
22 people, except the Town Attorney and those whose appointment or removal is otherwise provided
23 for by law, in accordance with such general personnel rules, regulations, policies or ordinances
24 as the ~~Board~~ Town Council may adopt.

25 (2) Report to the ~~Board of Commissioners~~ Town Council each appointment or removal
26 of an officer or employee at the next ~~Board~~ Town Council meeting following such appointment
27 or removal.

28 (3) Direct and supervise the administration of all departments, offices and agencies of the
29 Town, subject to the general direction and control of the ~~Board,~~ Town Council, except as
30 otherwise provided by law.

31 (4) Attend all meetings of the ~~Board,~~ Town Council, unless excused therefrom, and
32 recommend any measures that ~~he~~ the Town Manager deems expedient.

33 (5) Prepare and submit the annual budget and capital program to the ~~Board~~ Town
34 Council.



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1 (6) Keep the ~~Board~~Town Council fully advised as to the financial condition of the Town
2 and annually submit to the ~~Board~~Town Council, and make available to the public, a complete
3 report of the finances and administrative activities of the Town at the end of the fiscal year.

4 (7) Make any other reports that the ~~Board~~Town Council may require concerning the
5 operation of the Town departments, offices and agencies subject to ~~his~~the Town Manager's
6 direction and control.

7 (8) Perform any other duties that may be required or authorized by the ~~Board~~Town
8 Council, or as required by law.

9 "Sec. 4.3. Town Attorney. The ~~Board of Commissioners~~Town Council and Mayor shall
10 appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of
11 North Carolina. Upon request by the ~~Board of Commissioners~~Town Council, it shall be the duty
12 of the Town Attorney to defend suits against the Town; to advise the Mayor, ~~Board of~~
13 ~~Commissioners~~Town Council, and other Town officials with respect to the affairs of the Town;
14 to draft legal documents relating to the affairs of the Town; to inspect and pass upon agreements,
15 contracts, franchises and other instruments with which the Town may be concerned; to attend
16 meetings of the ~~Board of Commissioners~~Town Council, and to perform other duties as the ~~Board~~
17 Town Council may direct. Notwithstanding Sec. 2.2 of this Charter, the Mayor may vote on an
18 appointment under this section, provided the Mayor has not also voted to break a tie on that
19 appointment.

20 "Sec. 4.4. Town Clerk. The Town ~~Manager~~Council and Mayor shall appoint a Town Clerk
21 to keep a journal of the proceedings of the ~~Board of Commissioners~~Town Council, to maintain
22 in a safe place all records and documents pertaining to the affairs of the Town, and to perform
23 such other duties as may be required by law or as the Town ~~Manager~~Council directs.
24 Notwithstanding Sec. 2.2 of this Charter, the Mayor may vote on an appointment under this
25 section, provided the Mayor has not also voted to break a tie on that appointment.

26 ...

27 "Sec. 4.9. Mayor Participation in Appointments. In any instance where the Mayor may vote
28 on an appointment under this Article, the Mayor may also participate in a vote that is solely
29 regarding the compensation, discipline, or termination of that appointee, provided the Mayor has
30 not also voted to break a tie on that matter."

31 **SECTION 2.** This act is effective when it becomes law and applies to actions of the
32 Town Council and Mayor on or after that date.