

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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**SENATE BILL 9
State and Local Government Committee Substitute Adopted 3/14/23
House Committee Substitute Favorable 6/21/23
PROPOSED HOUSE COMMITTEE SUBSTITUTE S9-PCS45362-TE-6**

Short Title: Local Omnibus Changes.

(Local)

Sponsors:

Referred to:

January 26, 2023

A BILL TO BE ENTITLED

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; AND TO REQUIRE THAT MUNICIPAL ELECTIONS FOR ALL MUNICIPALITIES IN HAYWOOD COUNTY AND MADISON COUNTY BE CONDUCTED ON A PARTISAN BASIS.

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.



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- 1 (4) In any instance where the Mayor may vote on an appointment under this act,
 2 the Mayor may also participate in a vote that is solely regarding the
 3 compensation, discipline, or termination of that appointee, provided that the
 4 Mayor has not also voted to break a tie on that matter.

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

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 8 **PART II. GUILFORD BOARD OF EDUCATION VACANCIES**

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

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

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

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

- 47 (1) The individual appointed to fill a vacancy shall be a qualified voter of Guilford
 48 County.
- 49 (2) In instances in which the vacating Board member was appointed from within
 50 a single member district, the individual appointed shall be a resident of the
 51 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 HAYWOOD AND MADISON COUNTIES

SECTION 4. Section 5 of the Charter of the Town of Canton, being Chapter 90 of the Private Laws of 1907, as amended by Chapter 178 of the Private Laws of 1911, Chapter 78 of the Private Laws of 1920, Chapter 204 of the Private Laws of 1923, and Section 2-2 of the Town Ordinance adopted on August 27, 2013, reads as rewritten:

"Sec. 5. ~~At the next regular election~~ Regular municipal elections for the officers of the Town of Canton, North Carolina, to be held in 2013 as determined by the Haywood County Board of Elections, the 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 Canton shall elect four Aldermen and a Mayor-Mayor, all of whom must be residents of any part of the Town of Canton. During this election the two candidates receiving the highest number of votes

1 shall be elected to serve a (4) four year term and the next two Aldermen candidates receiving the
2 next highest votes shall serve a (2) two year term. The Mayor shall be elected for a (4) four year
3 term. Thereafter, the citizens of the Town of Canton shall biennially elect two Aldermen to serve
4 (4) four year terms and a Mayor shall be elected at alternate biennial elections to serve (4) a four
5 year term. The four Aldermen shall be elected for staggered four-year terms. Town officers shall
6 be elected on a partisan basis, as provided in G.S. 163-291."

7 **SECTION 5.** Section 4 of the Charter of the Town of Clyde, being Chapter 189 of
8 the Private Laws of 1889, as amended by Chapter 240 of the Private Laws of 1891, Chapter 873
9 of the 1945 Session Laws, Chapter 807 of the 1949 Session Laws, and Chapter 26 of the 1953
10 Session Laws, reads as rewritten:

11 "Sec. 4. ~~All Regular municipal elections in the Town of Clyde shall be governed by the~~
12 ~~general laws of the State as to municipalities and as set forth in Chapter 160 of the General~~
13 ~~Statutes, as amended, held in odd-numbered years and shall be conducted in accordance with the~~
14 ~~uniform municipal election laws of North Carolina. Town officers shall be elected on a partisan~~
15 ~~basis, as provided in G.S. 163-291."~~

16 **SECTION 6.** Section 4-1 of the Charter of the Town of Maggie Valley, being
17 Chapter 1337 of the 1973 Session Laws, reads as rewritten:

18 "**Sec. 4 -1.** Conduct of town elections. Regular municipal elections shall be held in the Town
19 in odd-numbered years and shall be conducted in accordance with the uniform municipal election
20 laws of North Carolina. Town officers shall be elected on a non-partisan basis and the results
21 determined by plurality, partisan basis, as provided by G.S. 163-292. G.S. 163-291."

22 **SECTION 7.** Section 3.1 of the Charter of the Town of Waynesville, being Chapter
23 126 of the 1995 Session Laws, reads as rewritten:

24 "Sec. 3.1. **Regular Municipal Elections; Conduct.** Regular municipal elections shall be
25 held in the Town every four years in odd-numbered years, and shall be conducted in accordance
26 with the uniform municipal election laws of North Carolina. The Mayor and members of the
27 Board shall be elected according to the nonpartisan election method on a partisan basis, as
28 provided in G.S. 163-291."

29 **SECTION 8.(a)** Section 4 of the Charter of the Town of Hot Springs, being Chapter
30 210 of the Private Laws of 1929, reads as rewritten:

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

47 **SECTION 8.(b)** This section becomes effective January 1, 2025, and applies to
48 elections held in 2025 and thereafter.

49 **SECTION 9.(a)** Section 5 of Article I of the Charter of the Town of Mars Hill, being
50 Chapter 890 of the 1953 Session Laws, as amended by Ord. No. 168 adopted on March 6, 2008,
51 reads as rewritten:

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

8 **SECTION 9.(b)** Section 1 of Article VII of the Charter of the Town of Mars Hill,
9 being Chapter 890 of the 1953 Session Laws, as amended by Ord. No. 168 adopted on March 6,
10 2008, reads as rewritten:

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

18 **SECTION 9.(c)** Sections 2 through 12 of Article VII of the Charter of the Town of
19 Mars Hill, being Chapter 890 of the 1953 Session Laws, are repealed.

20 **SECTION 10.** Section 3 of the Charter of the Town of Marshall, being Chapter 165
21 of the Private Laws of 1905, as amended by Chapter 232 of the Private Laws of 1913 and the
22 Town Ordinance adopted on May 5, 1997, reads as rewritten:

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

34 **SECTION 11.** This Part shall have the effect of repealing any conflicting provisions
35 of local or special acts or conflicting local ordinances relating to the nonpartisan municipal
36 elections for any municipalities covered by this act. This act shall not affect the filling of a
37 vacancy in a municipal election that occurs for a seat elected prior to the effective date of this
38 act.

39 **SECTION 12.** Except as otherwise provided, this Part is effective when it becomes
40 law and applies to elections held in 2023 and thereafter.

41 **PART IV. EFFECTIVE DATE**

42 **SECTION 13.** Except as otherwise provided, this act is effective when it becomes
43 law.
44