

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-102
SENATE BILL 150

AN ACT TO AMEND THE CHARTER OF THE CITY OF MORGANTON TO CLARIFY THE TIME PERIOD FOR FILLING VACANCIES IN THE OFFICE OF MAYOR AND TO PROVIDE THAT THE CITY MANAGER SHALL APPOINT THE CITY CLERK; TO UPDATE FINES FOR CERTAIN BOATING VIOLATIONS ON LAKE JAMES; TO PROVIDE THAT ELECTIONS FOR THE TOWN OF HILDEBRAN SHALL BE HELD IN EVEN-NUMBERED YEARS; TO AUTHORIZE THE TOWN OF WELDON TO DISPOSE OF CERTAIN PROPERTY BY PRIVATE NEGOTIATION AND SALE; TO MAKE A TECHNICAL CORRECTION IN THE TERMS OF OFFICE FOR THE BOARD OF TRUSTEES OF CLEVELAND COMMUNITY COLLEGE; AND TO MODIFY THE AUTHORIZATION FOR THE DELAY OF THE LEXINGTON CITY BOARD OF EDUCATION ELECTIONS IN 2021.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 2.14 of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, as amended by S.L. 1998-81, reads as rewritten:

"Sec. 2.14. Vacancy; absence or disability. – (a) A vacancy in the office of Mayor shall exist when a duly elected person fails to qualify or when a person who has been elected and has qualified dies, resigns, or no longer meets the requirements of Section 2.11 of this Charter, or is recalled. If a vacancy occurs in the office of Mayor, the Council ~~shall~~ shall, by majority ~~vote~~ vote, within 90 days following the date the vacancy occurs, appoint some qualified person to fill the office for the remainder of the unexpired term. The Mayor Pro Tempore shall discharge the powers and duties of the office of Mayor until the office is filled, ~~and he and, during such period of service~~, shall receive the same compensation as received by the office of Mayor during such period of service. ~~Mayor.~~ The council seat of Mayor Pro Tempore is not vacant during any period in which the Mayor Pro Tempore discharges powers and duties of the office of Mayor.

(b) During the period of absence or disability of the Mayor, the Mayor Pro Tempore shall perform the powers and duties of the ~~Mayor during the period that such absence or disability exists.~~ Mayor. The inability of the Mayor to perform the duties of ~~his~~ the office shall be determined by the Council in accordance with the provisions of ~~G.S. 160A-70, except that the vote of the Mayor is not required in any such determination.~~ G.S. 160A-70."

SECTION 1.(b) Section 2.15 of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, as amended by Chapter 202 of the Session Laws of 1983, reads as rewritten:

"Sec. 2.15. Powers and duties. – (a) The Mayor shall be the official head of the City government. Consistent with the provisions of this Charter, ~~he~~ the Mayor shall be vested with all of the powers, duties, rights, privileges and immunities granted to and conferred on Mayors of Cities by the General Laws of North Carolina.

...

(d) The Mayor shall be authorized to appoint ~~for his information and assistance,~~ individuals to serve on advisory boards, commissions, and committees, which shall be answerable to ~~him,~~ the Mayor, but whose actions shall be advisory in nature.



(e) The Mayor shall perform such other duties consistent with this Charter as may be conferred upon ~~him~~the Mayor by ordinance of the Council."

SECTION 1.(c) Section 3.12 of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, is repealed.

SECTION 1.(d) Chapter 2 of Article IV of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, reads as rewritten:

"Chapter 2. City Manager.

"Sec. 4.11. Appointment, qualifications, term. – The Council shall appoint a City Manager to serve at its pleasure. The City Manager shall be appointed solely on the basis of his or her executive and administrative qualifications, and ~~he~~ need not be a resident of the City or State when appointed.

"Sec. 4.12. Chief executive officer. – The City Manager shall be the chief executive officer of the City government. He or she shall be responsible to the Council for the proper and efficient administration of the City government.

...."

SECTION 1.(e) Section 4.21 of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, reads as rewritten:

"Sec. 4.21. City Clerk. – ~~The Council shall designate the City Manager as City Clerk. He shall be responsible for keeping a journal of the proceedings of the Mayor and Council and maintaining, in a safe place, all records and documents pertaining to the affairs of the City. The manager shall be authorized to delegate his responsibilities as City Clerk. The City Manager shall appoint a City Clerk to serve at the City Manager's pleasure. The City Clerk shall act as secretary to the City Council, keep the originals of all ordinances in a book especially provided for that purpose, be responsible for giving notice of all meetings of the Council, keep a journal of the proceedings of the Mayor and Council, maintain in a safe place all records and documents pertaining to the affairs of the City, and perform any other duties that may be required by law, by the Council, or by the City Manager. The City Manager may appoint or provide for one or more deputy City Clerks who shall have full authority to exercise and perform any of the powers and duties of the City Clerk that the City Manager may specify.~~"

SECTION 1.(f) Chapter 5 of Article IV of the Charter of the City of Morganton, being Chapter 180 of the Session Laws of 1975, reads as rewritten:

"Chapter 5. Boards and Commissions.

"Sec. 4.41. General provisions. – ~~(a) Except as prescribed by General Law or special act of the General Assembly, the voting members of the Council (not including the Mayor, except in case of equal division)~~ shall have the authority to create commissions, councils or boards which shall perform duties prescribed by the Council, including, but not limited to, making studies, conducting research and investigations, holding hearings, and preparing recommendations as to needed ordinances and resolutions; provided, the voting members of the Council shall be authorized to designate and name certain boards, commissions and committees to be appointed solely by the Mayor.

"Sec. 4.42. Composition; appointment; bylaws. – (a) Except as otherwise provide by law, the voting members of the Council ~~(not including the Mayor, except in case of equal division)~~ shall have the authority to provide for the manner of appointment, makeup and composition of such commissions, councils or boards, the periods of existence of same, and for the compensation of such members and employees of same, in whole or in part. The Council may provide by ordinance for reimbursement of the actual and necessary expenses incurred by the members thereof in the performance of their official duties. The Council shall have the authority to annually appropriate and donate money derived from contributions and other nontax revenues for and to such commissions, councils and boards to provide for their operation, either in whole or in part.

...

(c) Any member of a board or commission may be removed from office for cause by a majority vote of ~~all of the voting council members.~~Council.
...."

SECTION 2.(a) Section 5 of Chapter 502 of the Session Laws of 1963 reads as rewritten:

"Sec. 5. Any person who may be in actual physical control of the motor boat, or other water craft, in which any violation of the above provisions shall be committed, shall be considered to have been in control of the conduct of persons in such boat, and responsible for violations of this Act committed by such persons. Unless it be otherwise shown, the registered owner of any boat operated in violation of the provisions of this Article, shall be presumed to be the operator of the same at the time of such violation or violations. ~~Any Notwithstanding G.S. 15A-1340.23, any person who is convicted of a violation of any of the provisions of this Act shall be guilty of a Class 3 misdemeanor and shall be but only punished by a fine of not more than fifty dollars (\$50.00), or be imprisoned for not more than thirty (30) days.~~two hundred fifty dollars (\$250.00)."

SECTION 2.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

SECTION 3.(a) Section 3 of the Charter of the Town of Hildebran, being Chapter 212 of the Private Laws of 1899, as amended by Chapter 433 of the Session Laws of 1973 and Chapter 238 of the Session Laws of 1993, reads as rewritten:

"Sec. 3. In 2024, and biennially thereafter, regular municipal elections shall be held in the Town on the Tuesday after the first Monday in November of even-numbered years in accordance with the uniform municipal election laws of North Carolina. The election shall be nonpartisan and decided by simple plurality pursuant to G.S. 163-292. The elective officers of the town shall be a mayor who shall be elected by the qualified voters of the town for a term of four years, and five commissioners, who shall be elected by the qualified voters of the town for staggered terms of four years, ~~except that in 1993, the three persons receiving the highest numbers of votes are elected for four year terms, and the two persons receiving the next highest numbers of votes are elected for two year terms. In 1995 and quadrennially thereafter, two persons are elected. In 1997 and quadrennially thereafter, three persons are elected. The expansion of the board of commissioners from three to five members is effective at the organizational meeting following the 1993 municipal election. Beginning with the regular municipal election to be held in November 1973, the election shall be nonpartisan and decided by simple plurality. No primary election shall be held. The municipal elections shall be held and conducted by the County Board of Elections in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.~~years."

SECTION 3.(b) Regular municipal elections shall be conducted in the Town of Hildebran in 2021. The Mayor and three commissioners elected in 2021 shall serve five-year terms. The two commissioners elected in 2019 whose terms expire in 2023 are extended until 2024. The next regular municipal election shall be conducted in the Town of Hildebran in 2024.

SECTION 4.(a) Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Town of Weldon may convey by private negotiation and sale, with or without monetary consideration, and upon such terms as the Town deems appropriate, any or all of its right, title, and interest in some or all of the following described property: All that certain tract or parcel of land lying and being situate on the Eastern side of US Highway 301 and the Southern Side of NC SR No. 1150 (River Road) in Weldon Township, Halifax County, North Carolina, and being more particularly described as that 6.21 acres tract shown and delineated on the plat entitled "PLAT SHOWING PROPERTY STANDING IN THE NAME OF MARY JANE ARNOLD CREW" prepared by Burr & Associates, P.A. dated May 4, 1994, and recorded in Plat Cabinet 5, Slide 121 in the office of the Register of Deeds of Halifax County, North Carolina, the same being incorporated herein by reference for more complete and accurate description.

This property was conveyed to Michael H. Basnight by deed dated January 16, 1997, from B. B. Pierce Trucking, Inc., and recorded in Book 1697, Page 64 in the office of the Register of Deeds.

SECTION 4.(b) This section applies to the Town of Weldon only.

SECTION 5.(a) G.S. 115D-12(a), as amended by S.L. 2018-15, reads as rewritten:

"(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the second paragraph of this subsection, who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

Group One – eight trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees. No more than one trustee from Group One may be a member of a board of county commissioners. Should the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.

Group Two – four trustees, appointed by the General Assembly under G.S. 120-121, two of whom shall be appointed upon recommendation of the Speaker of the House of Representatives and two of whom shall be appointed upon recommendation of the President Pro Tempore of the Senate. Following consultation with members of the House of Representatives whose districts include counties within the administrative area of the community college, the Speaker of the House of Representatives shall make recommendations to the General Assembly for appointments to terms expiring in 2019 and ~~2021, 2020,~~ and every four years thereafter. Following consultation with members of the Senate whose districts include counties within the administrative area of the community college, the President Pro Tempore of the Senate shall make recommendations to the General Assembly for appointments to terms expiring in 2018 and ~~2020, 2021,~~ and every four years thereafter.

Group Three – the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to this Chapter shall be an ex officio nonvoting member of the board of trustees of each said institution."

SECTION 5.(b) This section applies only to Cleveland Community College.

SECTION 6.(a) Section 1.7(a) of S.L. 2021-56 reads as rewritten:

"SECTION 1.7.(a) Notwithstanding S.L. 1993-167, elections to the Lexington City Board of Education shall not be held in 2021. Members elected to the Lexington City Board of Education in 2017, or persons filling vacancies for those terms, whose terms were set to expire on December 6, 2021, shall hold over in office until their successors are elected and qualified. Election for those terms of office shall be held at the time of the ~~general election primary~~ for county offices in 2022, with the results determined as provided by G.S. 163-292. Candidates shall file their notices of candidacy for the election in 2022 with the Davidson County Board of Elections no earlier than 12:00 noon on ~~July 25, 2022, December 6, 2021,~~ and no later than 12:00 noon on ~~August 12, 2022, December 17, 2021.~~ The individuals certified as winners of this election may be sworn into office at any time after issuance of the certificate of election. Terms of office of members of the Lexington City Board of Education elected in 2022 ~~shall commence on December 6, 2022, and~~ shall expire on December 2, 2025. The Lexington City Board of Education shall publish notice of the date of the election both on the website of the Lexington City Board of Education and at least once in a newspaper of general circulation within seven days of the effective date of this act."

SECTION 6.(b) Section 1.7(b) of S.L. 2021-56 is repealed.

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of August, 2021.

s/ Mark Robinson
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives