

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 532

State and Local Government Committee Substitute Adopted 4/29/99

House Committee Substitute Favorable 7/7/99

Short Title: Asheville Civil Service Board.

(Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT REWRITING THE LAWS RELATED TO THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE, AND AUTHORIZING BUNCOMBE COUNTY TO CONDUCT AN ADVISORY REFERENDUM ON ZONING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 757 of the 1953 Session Laws, as amended, reads as rewritten:

"Section 1. There is hereby established as a part of government of the City of Asheville, a municipal corporation of the State of North Carolina a Department of Civil Service, to be under the general management and control of a Director of Civil Service, acting in cooperation with a Civil Service Board, and having Board which shall have the powers and performing perform the duties specified in this Act with respect to the classified service of the City of Asheville as hereinafter defined. defined in this Act. The City Manager shall provide for the operational needs of the Civil Service Board in the City's annual budget.

Sec. 2. Section 2. The Civil Service Board shall consist of five (5) members as follows: The Director of Civil Service, and one additional member who shall be chosen by the Council of the City of Asheville at a meeting of said Council, with fifteen (15)

1 days after the ratification of this Act, and shall serve at the pleasure of said Council. Two
2 ~~(2) members, who shall be elected by the members of the classified service of the City, as~~
3 ~~hereinafter defined, at an election for that purpose, to be called by the City Manger, and~~
4 ~~held within fifteen (15) days after the naming of the above two members by the Council,~~
5 ~~and after ten (10) days written notice to each employee of said classified service, said two~~
6 ~~(2) members to serve for a term of two years and until the election of their successors by~~
7 ~~the members of said classified service biennially thereafter. Within five (5) days after the~~
8 ~~election of the two (2) members of the board by the employees of the classified service,~~
9 ~~the City Manager shall call a meeting of the four members of the board then chosen, at~~
10 ~~which meeting, or an adjournment thereof, within five days thereafter, said members~~
11 ~~shall select by a majority vote, a fifth (5th) member of the board. If such member is not~~
12 ~~so elected, then the City shall choose a fifth (5th) member, of said board. The fifth (5th)~~
13 ~~member of the board shall serve for a term of two years and until the election of his~~
14 ~~successor biennially thereafter in the same manner as above provided.~~

15 The Civil Service Board shall consist of five members as follows: (i) two members who
16 shall be chosen by the City Council at a meeting of the Council and they shall serve at the
17 pleasure of the Council; (ii) two members who shall be elected by the members of the
18 classified service of the City, as defined in this Act, at an election held for that purpose
19 and on a normal City workday not less than 10 nor more than 30 days after written notice
20 of the date of the election is provided to each member of the classified service; and (iii)
21 one member who shall be selected by majority vote of the four other members already
22 selected or elected at a meeting held within 30 days after the members elected by the
23 classified service have taken office. If a member is not elected by majority vote of the
24 four other members, the City Council shall appoint a member to the Board. All members
25 of the Board shall be eligible for successive terms, in the same manner in which they
26 were initially selected or elected and may serve beyond the end of their respective terms
27 until their successors take office. The chair of the Civil Service Board shall be appointed
28 annually by the City Council, or more often as needed, from among the membership of
29 the Board. The members of the Board shall serve without compensation but may be
30 reimbursed for expenses pursuant to policies adopted by the City.

31 The City Council shall, by ordinance not inconsistent with this act, establish the
32 procedure for the election of the representatives of the employees in the classified
33 service, and provide for meeting the expense for such elections. The members of the
34 Civil Service Board must all be qualified voters of the City of Asheville, not employed by
35 the ~~city,~~ city or serving on the City Council. In the event of a vacancy on ~~said~~ the Board,
36 such vacancy shall be filled by the body or group, choosing the member, a successor to
37 whom is to be chosen, and in the manner herein provided for the selection of such
38 member.

39 ~~See 3.~~ Section 3. The classified service of the ~~city~~ City shall include all
40 officers and employees of the City of Asheville, except officers elected by the people, the
41 city manager, directors of departments, as defined in the city charter, and members of
42 advisory boards appointed by such directors, the city clerk, ~~the clerk of the police court,~~ or
43 any deputy clerk of the City of Asheville, and members of any board or commission

1 appointed by the ~~council~~, Council, and employees of independent boards now choosing
2 their own employees.

3 ~~Sec. 4. Section 4.~~ The Civil Service Board shall make, and may amend, rules
4 for promoting efficiency in the classified service of the ~~city~~, for the appointment, promotion,
5 ~~transfer for the layoff, reinstatement, suspension and removal of empl~~classified service. City as
6 provided in Section 5 of this Act. Such rules and any amendment thereto, shall be
7 submitted to the ~~said council~~ Council for approval, and shall be open to public inspection,
8 when filed with the ~~said council~~ Council for ~~such~~ approval. The ~~city council~~, City Council,
9 after giving members of the classified service and citizens of Asheville an opportunity to
10 be heard at a public hearing, shall act upon such proposed rules and amendments, and
11 such rules or amendments, when approved by a majority vote of the ~~council~~, Council,
12 shall be in full force and effect. The ~~council~~ Council may, before approval, amend the
13 rules or amendments thereto, submitted to it for approval.

14 ~~Sec. 5. Section 5.~~ Such rules, ~~above mentioned,~~ as authorized in Section 4 of
15 this Act, among other things, may provide:

16 (1) For the standardization and classification of all positions and
17 employments in the classified service of the ~~city~~. City. Such
18 classification into groups and subdivisions shall be based upon and
19 graded according to duties and responsibilities, and so arranged as to
20 promote the filling of the higher grades, so far as practicable, through
21 promotions. The City Manager or his or her designee shall consult
22 representative employees in the Police and Fire Departments to establish
23 criteria to be used to fill each position within those respective
24 departments, including lateral entry positions. If only one representative
25 employee is consulted, he or she shall be a representative chosen by the
26 employees of the respective department. If a group of two or more
27 employees is established for purposes of this subdivision, at least one-
28 half of the employees shall be chosen by the employees of the
29 respective department. The Civil Service Board shall have the authority
30 to approve any criteria established and the criteria shall apply only to
31 persons promoted or hired after the effective date of the approval. This
32 provision shall not apply to hiring or promotional processes initiated
33 prior to the effective date of this Act.

34 (2) ~~For open competitive tests to ascertain the relative fitness of all~~
35 ~~applicants for appointment in the competitive class.~~

36 (3) ~~For public notice of the time and place of all competitive tests, at least:~~
37 ~~ten days in advance thereof, by publication in the paper of the city~~
38 ~~having the largest or second largest circulation and in all copies of the~~
39 ~~issues thereof having the largest circulation in the city, and by posting a~~
40 ~~notice in conspicuous place in the city hall.~~

41 (4) ~~For the creation of eligible lists upon which shall be entered the names~~
42 ~~of the successful applicants in the order of their standing in the~~
43 ~~competitive tests, and without reference to the time of the test.~~

- 1 ~~(5) For the rejection of applicants or eligibles who do not satisfy reasonable~~
2 ~~requirements as to age, sex, physical condition and moral character or~~
3 ~~who have attempted deception or fraud in connection with any test or~~
4 ~~their application therefor.~~
- 5 ~~(6) For the certification to the appointing author from the appropriate~~
6 ~~eligible list, for filling a vacancy in the competitive class, of the three~~
7 ~~names standing highest in such list.~~
- 8 ~~(7) For temporary employment without test, in the absence of an eligible~~
9 ~~list; but no such temporary employment shall continue after the~~
10 ~~establishment of a suitable eligible list nor for more than sixty days.~~
- 11 ~~(8) For temporary employment for transitory work without test, but such~~
12 ~~employment shall require the consent of the Director of Civil Service in~~
13 ~~each case, and shall not continue for more than sixty days nor be~~
14 ~~renewed.~~
- 15 ~~(9) For noncompetitive tests, for appointment to positions designated as~~
16 ~~requiring peculiar and exceptional qualifications of a scientific,~~
17 ~~managerial, professional or educational character.~~
- 18 ~~(10) For promotion based on competitive tests and upon records of~~
19 ~~efficiency, character, conduct and seniority.~~
- 20 ~~(11) For transfer from a position to a similar position in the same class and~~
21 ~~grade.~~
- 22 ~~(12) For immediate reinstatement at the head of the eligible list of person~~
23 ~~who, without fault or delinquency on their part, are separated from the~~
24 ~~service or reduced in rank.~~
- 25 ~~(13) For suspension for purpose of discipline, with or without pay, for not~~
26 ~~longer than ninety days, and for leave of absence with or without pay.~~
- 27 ~~(14) For discharge or reduction in rank or compensation after the person to~~
28 ~~be discharged or reduced has, if he so requests, been presented by the~~
29 ~~person responsible for his appointment with the reasons therefor~~
30 ~~specifically stated in writing and has been given an opportunity to be~~
31 ~~publicly heard in his own defense by the Civil Service Board. The~~
32 ~~written reasons for such discharge or reduction and nay reply in writing~~
33 ~~thereto by any such officer or employee shall be filed with the~~
34 ~~Department of Civil Service.~~
- 35 ~~(15) For investigation and keeping a record of the efficiency of officers and~~
36 ~~employees in the classified service, and for requiring markings and~~
37 ~~reports relative thereto from appointing authorities.~~
- 38 (2) For temporary or part-time employment to meet the transitory or
39 seasonal needs of the City, except no temporary or part-time
40 employment may occur or continue in violation of applicable State or
41 federal law.
- 42 (3) For the establishment of a probationary period for new City employees
43 prior to employees becoming members of the classified service, except

1 no probationary period or any extension thereof may exceed one year in
2 the aggregate.

3 (4) For suspension for purpose of discipline, with or without pay, for not
4 longer than 90 days.

5 (5) For discharge or reduction in rank or compensation after the person to
6 be discharged or reduced has, if he or she so requests, been presented by
7 the person responsible for his or her appointment with the reasons
8 therefor specifically stated in writing and has been given an opportunity
9 to be publicly heard in his or her own defense by the Civil Service
10 Board, in accordance with Section 8 of this Act. The written reasons for
11 the discharge or reduction and any reply in writing thereto by any such
12 officer or employee shall be filed with the Department of Civil Service.

13 (6) For investigation and keeping a record of the efficiency of officers and
14 employees in the classified service, and for requiring markings and
15 reports relative thereto from appointing authorities.

16 ~~Sec. 6. There shall be kept in the department of Civil Service an application~~
17 ~~register in which shall be entered the names and addresses and the order and date of~~
18 ~~application of all applicants for civil service test and the office or employments which~~
19 ~~they seek. All applications shall be upon forms prescribed by the department for Civil~~
20 ~~Service.~~

21 ~~Sec. 7. Tests required by the department of Civil Service shall be practical,~~
22 ~~shall relate to matters which fairly measure the relative fitness of applicants to discharge~~
23 ~~the duties of the position which they seek, and shall take account of character, training~~
24 ~~and experience. No question in any test shall relate to political or religious opinions,~~
25 ~~affiliations or service, and no appointment, transfer, layoff, promotion, reduction,~~
26 ~~suspension or removal shall be affected or influenced by such opinions, affiliations or~~
27 ~~service. Notice of the time, place and scope of each test shall be given by publication and~~
28 ~~posting as specified in Section 5 of this Act, and by mail, at least ten days in advance, to~~
29 ~~each applicant upon the appropriate lists of the application register.~~

30 ~~Sec. 8. The list of applicants eligible to appointment by reason of civil service~~
31 ~~tests, which their grades, shall be known as the register of eligibles and shall be open to~~
32 ~~public inspection. The names of such eligibles shall be arranged in their respective lists in~~
33 ~~the order of their standing on test. The name of no person shall remain on the register of~~
34 ~~eligibles for more than two years without a new application, and, if the civil service rules~~
35 ~~as require, a new test.~~

36 ~~Sec. 9. When any position in the classified service is to be filled, the officer~~
37 ~~having authority to fill such vacancy shall request of the director of civil service the~~
38 ~~certification of names of eligibles for appointment to such vacancy and upon receipt of~~
39 ~~such request the director of civil service shall promptly certify to such officer the names~~
40 ~~and addresses of the highest three eligibles on the list for the class or grade to which such~~
41 ~~position belongs, with their respective grades as shown on the register of eligibles. The~~
42 ~~appointing authority shall appoint to such position one of the persons whose names are so~~
43 ~~certified.~~

1 ~~Sec. 10. Whenever practicable, vacancies in the classified service shall be~~
2 ~~filled by promotion, and the civil service rules shall indicate the lines of promotion from~~
3 ~~each lower to higher grade wherever experience derived in the lower grade tends to~~
4 ~~qualify for the higher. Any advancement in rank shall constitute promotion. Lists from~~
5 ~~which promotions are to be made shall be created as provided by the civil service rules,~~
6 ~~and the appointment of eligibles therefrom shall be made in the same manner as original~~
7 ~~appointments. When there are less than three names on the promotion list eligible for~~
8 ~~certification in any instance, then if the City Manager requests it, appointments to higher~~
9 ~~positions shall be made after competitive tests, in which persons not in the service of the~~
10 ~~city may compete, as well as applicants for such positions from the lower grades of the~~
11 ~~service, or from other branches thereof. In such case, appointment shall be made from~~
12 ~~the highest three eligibles, as in the case of other competitive tests.~~

13 ~~Sec. 11. There shall be maintained in the department of civil service a list of~~
14 ~~all persons in the classified service showing in connection with each name the position~~
15 ~~held, the salary or wages paid, the data and character of appointment, and every~~
16 ~~subsequent change in status. Such list shall be known as the service register and every~~
17 ~~appointing officer or authority shall promptly transmit to the department of civil service~~
18 ~~all information requested for the establishment and maintenance of each register.~~

19 ~~Sec. 12. The treasurer shall not pay, nor shall any officer or employee of the~~
20 ~~city issue a check for the payment of any salary or compensation to any person holding or~~
21 ~~claiming to hold, a position in the classified service, unless the payroll or account of such~~
22 ~~salary or compensation shall bear the certificate of the director of civil service that the~~
23 ~~persons named therein have been appointed or employed and are performing service in~~
24 ~~accordance with the civil service provisions of this Act and the rules established~~
25 ~~thereunder, that their names appear upon the service register for the time for which such~~
26 ~~salary or compensation is claimed and that the salary or compensation is at the rate~~
27 ~~indicated on such register. If the treasurer or any officer or employee shall willfully or~~
28 ~~negligently violate any of the provisions of this Section, he and the sureties on his bond~~
29 ~~shall be liable to the City for the amount thereof and action may be brought therefor by~~
30 ~~an taxpayer for the use of the city without making previous request of the city to sue.~~

31 Section 6. The Civil Service Board shall have the authority, exercisable by any
32 of its members, to review and approve all promotional processes in the Police and Fire
33 Departments and may review any promotional decision in accordance with Section 7 of
34 this Act but no promotional decision may be changed except in accordance with Section
35 8 of this Act. This section shall not apply to promotional processes initiated prior to the
36 effective date of this Act.

37 ~~Sec. 13. Section 7. The council, Council, the city manager, City Manager, the~~
38 ~~Director or chair of the Civil Service Board, or any person designated by any of them,~~
39 ~~may make investigations concerning the facts in respect to the operation and enforcement~~
40 ~~of the provisions of this Act and of the rules established thereunder, and concerning the~~
41 ~~condition of the civil service of the city City or any branch thereof thereof and may refer~~
42 ~~such matters to the Civil Service Board for hearing in accordance with Section 8 of this~~
43 ~~Act, or for further investigation as appropriate. Written charges of misconduct or~~

1 ~~inefficiency against any officer or employee in the classified service may be filed with the~~
2 ~~Director of Civil Service by any person. The Civil Service Board shall investigate any such~~
3 ~~charges, or cause them to be investigated, and report the findings of the investigation, in writing,~~
4 ~~to the authority responsible for the appointment of the officer or employee against whom the~~
5 ~~charges have been made. Any person, or persons, making any investigation authorized or~~
6 ~~required by this Section, section, shall have the power to subpoena and require the~~
7 ~~attendance of witnesses. A copy of the report of ~~such~~ the investigation shall be filed with~~
8 ~~the city clerk and be open for public ~~inspection~~ inspection, subject to the provisions of the~~
9 ~~Personnel Privacy Act or other laws governing the disclosure of records in this State.~~

10 ~~Sec. 14-Section 8.~~ (a) Whenever any member of the classified service of the City of
11 Asheville is discharged, suspended, reduced in rank, transferred against his or her will, or
12 is denied any promotion or raise in pay which he or she would be entitled to, that member
13 shall be entitled to a hearing before the Civil Service Board of the City of Asheville to
14 determine whether or not the action complained of is justified.

15 (b) Any member of the classified service of the City of Asheville who desires ~~such~~
16 a hearing shall file his or her request for hearing with the city clerk within 10 days after
17 learning of the act or omission of which he or she ~~complains~~ complains but not before the
18 member shall have exhausted his or her remedy provided by the grievance procedures
19 established by ordinance or policy of the City and the grievance procedure shall be
20 concluded within 30 days. If the grievance procedure is not concluded within 30 days,
21 the member may proceed as provided in this section. Upon receipt of ~~such notice,~~ notice
22 as required in this section, the city clerk shall set the matter for hearing before the ~~civil~~
23 ~~service board~~ Civil Service Board at a date not less than five nor more than 15 days from
24 the clerk's receipt of such notice. Except for the time for filing the initial request for
25 hearing with the Board, the Board may extend the time for taking action under this
26 section for cause or by agreement of the parties to the proceeding.

27 (c) Any member of the classified service of the City of Asheville who requests a
28 hearing pursuant to this ~~act~~ Act shall be entitled to be represented by counsel of his or her
29 choice at all stages of the proceeding. ~~It shall be the duty of the city attorney to represent the~~
30 ~~city in cases where the complaining member of the classified service is represented by counsel.~~
31 The City may be represented by its attorney at any such hearing.

32 (d) At such hearing, the burden of proving the justification of the act or omission
33 complained of shall be upon the City of Asheville and the member requesting the hearing
34 shall be entitled to inspect and copy any records upon which the ~~city~~ City plans to rely at
35 ~~such hearing, provided, that such~~ the hearing if the records are requested in writing by the
36 member or his or her attorney prior to the day set for the hearing.

37 (e) The ~~civil service board~~ Civil Service Board shall render its decision in writing
38 within five days after the conclusion of the hearing. If the ~~board~~ Board determines that
39 the act or omission complained of is not justified, the ~~board~~ Board shall order to rescind
40 whatever action the ~~board~~ Board has found to be unjustified and may order the ~~city~~ City to
41 take such steps as are necessary for a just conclusion of the matter before the ~~board~~
42 Board. Upon reaching its decision, the ~~board~~ Board shall, in writing, immediately

1 inform the city clerk and the member requesting the hearing of the ~~board's decision and~~
2 ~~shall do so in writing.~~ Board's decision.

3 (f) Within ten days of the receipt of notice of the decision of the ~~board,~~ Board,
4 either party may appeal to the Superior Court Division of the General Court of Justice for
5 Buncombe County for a trial de novo. The appeal shall be effected by filing with the
6 Clerk of the Superior Court of Buncombe County a petition for trial in superior court,
7 setting out the facts upon which the petitioner relies for relief. If the petitioner desires a
8 trial by jury, the petition shall so state. Upon the filing of the petition, the clerk of the
9 superior court shall issue a civil summons as in regular civil action, and the sheriff of
10 Buncombe County shall serve the summons and petition on all parties who did not join in
11 the petition for trial. It shall be sufficient service upon the City of Asheville for the sheriff
12 to serve the petition and summons upon the clerk of the ~~City of Asheville.~~ City.
13 Thereafter, the matter shall proceed to trial as any other civil action.

14 ~~Sec. 15. The Council shall be ordinance establish a schedule of compensation~~
15 ~~for officers and employees in the classified service which shall provide uniform~~
16 ~~compensation for like service. such schedule of compensation may establish a minimum~~
17 ~~and a maximum for any grade.~~

18 ~~Sec. 16. Any applicant for any office or employment in the classified service~~
19 ~~who shall knowingly make any false statement in connection with any test shall thereby~~
20 ~~forfeit his right to be entered upon the eligible register and in case he has been appointed~~
21 ~~to an office or employment, he shall forfeit it and shall not within three years thereafter~~
22 ~~be eligible to appointment to any office or employment in the service of the City, nor~~
23 ~~shall he, during that time, be entitled to take any civil service test.~~

24 ~~Sec. 17. No applicant for civil service test or for appointment to the classified~~
25 ~~service shall, either directly or indirectly, give, render or pay or promise to give, render or~~
26 ~~pay any money, service or other valuable thing to any person for or on account of, or in~~
27 ~~connection with, his test, appointment or proposed appointment, nor shall he ask for or~~
28 ~~receive any recommendation or assistance from any person in the services of the city~~
29 ~~other than a statement regarding any previous service to the city as a subordinate under~~
30 ~~such officer or employee.~~

31 ~~Sec. 18. No person shall willfully or corruptly make any false statement,~~
32 ~~certificate, mark, grading or report in regard to any test or appointment held or made~~
33 ~~under the civil service provisions of this Act, or in any manner commit or attempt to~~
34 ~~commit any fraud on the impartial execution of any provisions of the civil service rules.~~

35 ~~Sec. 19. No person in the administrative and/or classified service of the city~~
36 ~~shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or~~
37 ~~receiving any assessment, subscription or contribution for any political party or political~~
38 ~~purpose whatever. No person shall orally or by letter solicit or be in any manner~~
39 ~~concerned in soliciting any assessment, subscription or contribution for any political~~
40 ~~purpose from any person holding a position in the administrative and/or classified~~
41 ~~service. No person shall use or promise to use his influence or official authority to secure~~
42 ~~any appointment or prospective appointment, to any position in the service of the city as a~~
43 ~~reward or return for personal or partisan political service.~~

1 ~~Sec. 20. Section 9.~~ No person about to be appointed to any position in the
2 service of the ~~city~~ City shall sign or execute a resignation dated or undated, in advance of
3 such appointment. No person in the service of the ~~city~~ City shall discharge, suspend,
4 layoff, reduce in grade or in any manner change the official rank or compensation of any
5 person in such service, or promise or threaten to do so, for withholding or neglecting to
6 make any contribution or money or service or any valuable thing for any political
7 purpose. No person in the ~~administrative~~ service of the ~~city~~ shall use his official authority to
8 influence or coerce the political action of any person or body, or to interfere with any nomination
9 or election to public office.

10 ~~Sec. 21.~~ No person in the ~~administrative and/or classified~~ service of the City of
11 Asheville shall act as an officer of a political organization, take part in a political
12 campaign, serve as a member of a committee of any such organization, or circulate, or
13 seek signatures to any petition provided for by primary or election laws, or act as a
14 worker in favor of or in opposition to any candidate for public office. This shall not be
15 construed to restrict the right of any employee in the qualified service, to vote in any
16 election, when qualified.

17 ~~Sec. 22. Section 10.~~ It shall be the duty of the ~~Director of Civil Service~~ Board to
18 supervise the execution of the foregoing civil service provisions of this Act and of the
19 rules made thereunder, and it shall be the duty of all persons in the service of the ~~city~~ City
20 to comply with such rules and to aid in their enforcement. Any person, who, by himself or
21 with others, willfully or corruptly deceives or obstructs any person in respect to his/her right to
22 take part in any test for admission to the ~~classified service of the city~~; or willfully and corruptly
23 marks, grades or reports upon the test or proper standing of any person tested for appointment in
24 the ~~classified service~~, or aids in so doing; or willfully or corruptly makes any false representation
25 as to the results of such tests or concerning persons so tested; or furnished special or secret
26 information for the purpose of either improving or injuring the prospects or chances of a person
27 tested, or to be appointed, employed or promoted; or impersonates any person, or permits or aids
28 in any impersonation or appointment or request to be tested or registered; or who makes known
29 or assists in making known to any applicant for test, in advance thereof, any question to be asked
30 on such test, exercise the rights as stated herein; or willfully or through culpable negligence
31 violates any of the provisions of this Act, shall be guilty of a misdemeanor and shall, upon
32 conviction thereof, be punished by a fine of not less than fifty dollars (\$50.00) nor more than one
33 thousand dollars (\$1,000), or by imprisonment for a term not exceeding six (6) months. If any
34 such person be an applicant for competitive test, he shall be excluded therefrom; if he be an
35 eligible, his name shall be removed from the register of eligibles; and if he be an officer or
36 employee of the city, he shall immediately forfeit his office or employment.

37 ~~Sec. 23.~~ Any taxpayer in the city may maintain an action to recover for the
38 City any sum of money paid in violation of the civil service provisions, or to enjoin the
39 Director of Civil Service from attaching his certificate to a payroll, or account for
40 services rendered, in violation of this Act or the rules made thereunder; and the rules
41 made under the foregoing provisions shall for this and all other purposes have the force
42 of law.

43 ~~Sec. 24. Section 11.~~ Any and all employees of the classified service as
44 hereinabove defined, defined in this Act, who are members of the classified service as

1 defined in this Act at the time of the first election of a Civil Service Director under this Act,
2 shall, without test, certification or reappointment, or without complying with any of the
3 provisions of this Act, relating in any way to qualifications for or appointment to the position she
4 or he then holds, effective date of this Act, shall be deemed to hold and occupy such
5 position as an employee of the civil service of the ~~city~~ City, as established by this Act,
6 subject only to layoff, ~~suspension~~ suspension, or removal therefrom, as provided in this
7 Act, and all of the provisions of this Act shall be applicable to any and all such
8 employees.

9 ~~Sec. 25. In case of emergency, declared to be such by a resolution adopted by~~
10 ~~the council in regular or special session, requiring, in the opinion of the council, the~~
11 ~~employment of more persons than are available for appointment from the eligible list in~~
12 ~~any branch of the classified service, or immediately available for appointment from such~~
13 ~~list, the city council may, without waiting for an eligible list of employees, employ or~~
14 ~~authorize the employment of as many employees as, in the opinion of the council, may be~~
15 ~~needed to meet the emergency, such employment to continue throughout the emergency~~
16 ~~and until an eligible list of employees is available.~~

17 ~~Sec. 26. Constitutionality of Act. Section 12. If any Section, section, subsection,~~
18 ~~subdivision, sentence, clause~~ clause, or phrase of this Act shall for any reason be held to
19 be invalid or unconstitutional, such decision shall not affect the validity of the remaining
20 portions of this Act.

21 ~~Sec. 27. Section 13. All laws and clauses of laws in conflict with the~~
22 ~~provisions of this Act, including all of Chapter 83 of the Session Laws of 1947, as~~
23 ~~amended by Chapter 459 of the Session Laws of 1951, and Chapter 1000 of the Session~~
24 ~~Laws of 1951, Act are hereby repealed.~~

25 ~~Sec. 28. The public interest requires that this act shall be in full force and~~
26 ~~effect from and after its ratification."~~

27 Section 2. Notwithstanding the provisions of this act, the existing Civil Service
28 Board shall continue in operation, with no interruption in the term of any current
29 member, and without affecting the manner of selection or eligibility for current service or
30 successive terms of any member, and the powers, duties, and responsibilities of the Board
31 shall be as prescribed by this act from and after the effective date of this act.

32 Section 3.(a) The board of commissioners of a county may direct the board of
33 elections of that county to conduct a countywide advisory referendum on zoning in the
34 unincorporated area of that county.

35 Section 3.(b) The board of commissioners shall decide the form and content of
36 the issue on the ballot.

37 Section 3.(c) Any referendum under this section must be conducted on or
38 before December 31, 1999.

39 Section 3.(d) This section applies to Buncombe County only.

40 Section 4. Sections 1 and 2 of this act become effective 30 days after they
41 become law. The remainder of this act is effective when it becomes law.