

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 415
SENATE BILL 498

AN ACT TO AMEND CHAPTER 757 OF THE SESSION LAWS OF 1953
RELATING TO THE CIVIL SERVICE COMMISSION OF THE CITY OF
ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Whenever any member of the classified service of the City of Asheville is discharged, suspended, reduced in rank, transferred against his or her will, or is denied any promotion or raise in pay which he or she should be entitled to, that member shall be entitled to a hearing before the Civil Service Board of the City of Asheville to determine whether or not the action complained of is justified.

Sec. 2. Any member of the classified service of the City of Asheville who desires such hearing shall file his request for hearing with the city clerk within 10 days after learning of the act or omission of which he or she complains. Upon receipt of such notice, the city clerk shall set the matter for hearing before the civil service board at a date not less than five nor more than 15 days from the clerk's receipt of such notice.

Sec. 3. Any member of the classified service of the City of Asheville who requests a hearing pursuant to this act shall be entitled to be represented by counsel of his or her choice at all stages of the proceeding. It shall be the duty of the city attorney to represent the city in cases where the complaining member of the classified service is represented by counsel.

Sec. 4. At such hearing, the burden of proving the justification of the act or omission complained of shall be upon the City of Asheville and the member requesting the hearing shall be entitled to inspect and copy any records upon which the city plans to rely at such hearing, provided that such records are requested in writing by the member or his attorney prior to the day set for the hearing.

Sec. 5. The civil service board shall render its decision in writing within five days after the conclusion of the hearing. If the board determines that the act 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. Upon reaching its decision, the board shall immediately inform the city clerk and the member requesting the hearing of the board's decision and shall do so in writing.

Sec. 6. Within 10 days of the receipt of notice of the decision of the board, either party may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. The appeal shall be effected by filing with the

Clerk of the Superior Court of Buncombe 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 the superior court shall issue a civil summons as in regular civil action, and the sheriff of Buncombe 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 of Asheville for the sheriff to serve the petition and summons upon the clerk of the City of Asheville. Thereafter, the matter shall proceed to trial as any other civil action.

Sec. 7. If any section, subsection, subdivision, sentence, clause or phrase of this act shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Sec. 8. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.