

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 430
State and Local Government Committee Substitute Adopted 5/12/09

Short Title: Wilmington Civil Service/Amendments. (Local)

Sponsors:

Referred to:

March 5, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE WILMINGTON CIVIL SERVICE ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Sections 11.1 and 11.2 of Article XI of the Charter of the City of
5 Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the
6 1981 Session Laws, read as rewritten:

7 "ARTICLE XI. CIVIL SERVICE.

8 "Sec. 11.1. Civil Service Commission established. ~~There is created a Civil Service~~
9 ~~Commission consisting of five members. Each member must be a citizen and a resident of the~~
10 ~~City of Wilmington. No member shall be an officer or employee of the city, or be a member of~~
11 ~~the immediate family of an employee of the city or a former employee of the police or fire~~
12 ~~department.~~

13 ~~The employees of the City of Wilmington Fire Department, by a majority vote, shall name~~
14 ~~one member. The employees of the City of Wilmington Police Department, by a majority vote,~~
15 ~~shall name one member. The City Council of the City of Wilmington, by a majority vote, shall~~
16 ~~name one member. The New Hanover County Medical Society governing board, by a majority~~
17 ~~vote, shall name one member. The Wilmington Ministerial Association governing body, by a~~
18 ~~majority vote, shall name one member.~~

19 ~~The members of the commission shall serve a term of three years unless removed by the~~
20 ~~appointing authority. A member may be removed by a majority vote of all members of the~~
21 ~~agency appointing that member.~~

22 ~~A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled~~
23 ~~by the agency authorized to name the member causing the vacancy. If the agency fails to fill the~~
24 ~~vacancy within 60 days after notification, the resident senior superior court judge of the judicial~~
25 ~~district that includes New Hanover County shall immediately fill the vacancy. Members~~
26 ~~appointed to fill a vacancy serve for the remainder of the unexpired term.~~

27 ~~The city council shall set the compensation for allowances, if any, to be paid the members~~
28 ~~of the commission. In November of each year, the commission shall elect a chairman and may~~
29 ~~elect other officers. A majority of the members of the commission constitutes a quorum. The~~
30 ~~commission may determine its own rules of procedure.~~

31 ~~The city clerk shall be designated as permanent recording secretary to the Civil Service~~
32 ~~Commission. The recording secretary shall maintain the minutes of commission meetings and~~
33 ~~hearings, keep custody of commission records and notify members of meetings. The director of~~
34 ~~personnel shall act as an ex officio member of the commission representing the city on~~
35 ~~personnel matters to be handled by the commission. The commission shall within a reasonable~~
36 ~~time, supply the director of personnel with notification of any actions, reports, or~~
37 ~~recommendations made by the commission. The personnel office shall notify affected police~~



1 ~~and fire department members of actions, reports and recommendations made by the~~
2 ~~commission.~~

3 (a) Establishment, Qualifications, and Restrictions. – There is created a civil service
4 commission consisting of five regular members and one nonvoting ex officio member. Each
5 regular member must be a citizen and a resident of the City of Wilmington. No regular member
6 shall be an officer or employee of the city, or be a member of the immediate family of an
7 employee of the city, or a former employee of the police or fire department.

8 (b) Appointment, Term, and Removal of Regular Members. – The employees of the
9 City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall
10 name one regular member. The employees of the City of Wilmington Police Department who
11 are subject to this Article, by a majority vote, shall name one regular member. The City
12 Council of the City of Wilmington, by a majority vote, shall name one regular member. The
13 New Hanover County Medical Society governing board, by a majority vote, shall name one
14 regular member. The sitting members of the Civil Service Commission, by a majority vote,
15 shall select one member to be confirmed by the City Council as a regular member of the
16 commission.

17 The regular members of the commission shall serve a term of three years unless removed
18 by the appointing authority. A member may be removed by a majority vote of all members of
19 the agency appointing that member.

20 (c) Vacancy. – A vacancy on the commission may be caused by the death, resignation,
21 disqualification, or removal of a regular member. Such vacancy shall be filled by the
22 appointing authority authorized to name the member causing the vacancy. If the appointing
23 agency fails to fill the vacancy within 60 days after notification, the senior resident superior
24 court judge of the judicial district that includes New Hanover County shall be notified and shall
25 immediately fill the vacancy. Regular members appointed to fill a vacancy serve for the
26 remainder of the unexpired term.

27 (d) Compensation, Officers, and Quorum. – The City Council shall set the
28 compensation for allowances, if any, to be paid the members of the commission. In November
29 of each year, the regular members of the commission shall elect a chairman and may elect other
30 officers. A majority of the regular members of the commission constitutes a quorum. There
31 shall be a minimum of four regular members present to consider the appeal of a dismissal or
32 demotion under this Article. A quorum will be required to consider nondisciplinary matters.

33 (e) Secretary. – The city clerk shall act as permanent recording secretary to the Civil
34 Service Commission. The recording secretary shall maintain the minutes of commission
35 meetings and hearings, shall be custodian of all papers and records pertaining to the business of
36 the commission, shall notify commission members of meetings, shall administer required oaths,
37 shall be responsible for transmitting to the Superior Court of New Hanover County a complete
38 transcript of all proceedings and papers concerning any commission order appealed to the
39 court, and shall perform other duties as the commission may require.

40 (f) Ex Officio Member. – The director of human resources shall act as a nonvoting ex
41 officio member of the commission and shall advise the commission on all city and
42 departmental policies, rules, regulations, and procedures. The commission shall, within a
43 reasonable time, supply the director of human resources with notification of any actions,
44 reports, or recommendations made by the commission. The human resources department shall
45 notify affected police and fire department members of actions, reports, and recommendations
46 made by the commission.

47 ~~"Sec. 11.2. Jurisdiction. Application of Article. The Civil Service Act has jurisdiction over~~
48 ~~an employee of the Police Department of the City of Wilmington certified in accordance with~~
49 ~~Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty~~
50 ~~is that of enforcing the criminal laws of the city and State, excluding those employees whose~~

1 primary responsibility is that of issuing parking tickets or collecting fees. The chief of the
2 police department is not covered by the Civil Service Act.

3 ~~The act shall apply to an employee of the Fire Department of the City of Wilmington~~
4 ~~certified in accordance with Section 11.5 of this act and whose primary function is that of~~
5 ~~protecting life and property through fire fighting, including those fire officers assigned to~~
6 ~~supporting services of the fire service. The chief of the fire department is not covered by the~~
7 ~~Civil Service Act.~~

8 (a) General Application. – The provisions of this Article shall apply only to civil
9 service certified employees of the City of Wilmington police and fire departments as defined in
10 this section.

11 (b) Police Department. – An employee of the police department shall be civil service
12 certified only if that employee: (i) is a full-time regular employee of the City of Wilmington;
13 (ii) has successfully completed the probationary period of employment as set forth in Section
14 11.5 of this Article; (iii) has received certification as a criminal justice officer by the State of
15 North Carolina; and (iv) continues to maintain such State certification while employed by the
16 police department as a criminal justice officer. Other than Section 11.4 of this Article, the
17 provisions of this Article shall not apply to the chief of police. The provisions of this Article
18 shall not apply to any deputy chief or auxiliary police officer appointed to such position after
19 the date of the enactment of this Article.

20 (c) Fire Department. – An employee of the fire department shall be civil service
21 certified only if that employee: (i) is a full-time regular employee of the City of Wilmington;
22 (ii) has successfully completed the probationary period of employment as set forth in Section
23 11.5 of this Article; (iii) has received certification as either a firefighter or fire inspector by the
24 State of North Carolina; and (iv) continues to maintain such State certification while employed
25 by the fire department in a primary function of protecting life and property through firefighting,
26 including those fire officer positions assigned to supporting services of the fire service. Other
27 than Section 11.4 of this Article; the provisions of this Article shall not apply to the fire chief.
28 The provisions of this Article shall not apply to any deputy fire chief appointed to such position
29 after the date of the enactment of this Article."

30 **SECTION 2.** This act is effective when it becomes law.