

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 430  
State and Local Government Committee Substitute Adopted 5/12/09  
House Committee Substitute Favorable 6/30/10  
Fourth Edition Engrossed 7/7/10

Short Title: Wilmington Civil Service/Amendments.

(Local)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) AMEND THE WILMINGTON CIVIL SERVICE ACT TO PROVIDE THAT THE SITTING MEMBERS OF THE CIVIL SERVICE COMMISSION, BY MAJORITY VOTE, SHALL NAME ONE MEMBER OF THE COMMISSION AND PROVIDE FOR THE REPLACEMENT OF THE MEMBER PREVIOUSLY NAMED BY THE WILMINGTON MINISTERIAL ASSOCIATION; AND (2) CLARIFY AND EXPAND THE AUTHORITY OF THE TOWN OF CAROLINA BEACH TO REGULATE AND ENFORCE LAWS IN CAROLINA BEACH HARBOR AND THE SHORELINE AREA ADJOINING THE TOWN.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 11.1 of Article XI of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the 1981 Session Laws, reads as rewritten:

"ARTICLE XI. CIVIL SERVICE.

"**Sec. 11.1.** Civil Service Commission established. There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department. Applicants to the Civil Service Commission shall complete the City of Wilmington Boards and Commissions application process.

The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, who are subject to this Article, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. ~~The Wilmington Ministerial Association governing body,~~ The sitting members of the Civil Service Commission, by a majority vote, shall name one member.

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

A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members



1 appointed to fill a vacancy serve for the remainder of the unexpired term. Notwithstanding any  
2 other provision in this section, the member previously named by the Wilmington Ministerial  
3 Association governing body, shall be replaced with another member chosen by a majority vote  
4 of the sitting members of the Civil Service Commission. The member, who must complete the  
5 City of Wilmington Boards and Commissions application process, shall fill an at-large seat for  
6 a one-year term to run from August 1, 2010, through August 1, 2011.

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

11 The city clerk shall be designated as permanent recording secretary to the Civil Service  
12 Commission. The recording secretary shall maintain the minutes of commission meetings and  
13 hearings, keep custody of commission records and notify members of meetings. The director of  
14 personnel shall act as an ex officio member of the commission representing the city on  
15 personnel matters to be handled by the commission. The commission shall within a reasonable  
16 time, supply the director of personnel with notification of any actions, reports, or  
17 recommendations made by the commission. The personnel office shall notify affected police  
18 and fire department members of actions, reports and recommendations made by the  
19 commission."

20 **SECTION 2.(a)** Definitions. – The following definition applies to Sections 2.(a) to  
21 2.(e) of this act:

- 22 (1) "Shoreline area" means the land and water areas extending from the  
23 corporate boundaries of the Town of Carolina Beach to a distance of 200  
24 yards in parallel lines from the corporate boundaries. This area includes  
25 Carolina Beach Harbor, the Municipal Marina, and Yacht Basin. This area  
26 does not include: (i) the shoreline areas along the Atlantic Ocean; (ii) the  
27 Intracoastal Waterway and all areas within its right-of-way; and (iii) any  
28 area within the corporate boundaries of another city or town organized  
29 pursuant to Chapter 160A of the General Statutes.

30 **SECTION 2.(b)** Purposes. – The purposes of Sections 2.(a) to 2.(e) of this act are  
31 to clarify and expand the authority of the Town of Carolina Beach to:

- 32 (1) Operate and manage facilities in Carolina Beach Harbor, the Municipal  
33 Marina, and Yacht Basin.  
34 (2) Enforce navigation, boating, water safety, resource protection, recreation,  
35 and public safety laws in the shoreline area in cooperation and coordination  
36 with applicable local, State, and federal agencies.

37 **SECTION 2.(c)** Effect of ordinances in the shoreline area. – The Town may adopt  
38 ordinances pursuant to G.S. 160A-174 and extend applicable ordinances of the Town so that  
39 the ordinances have full force and effect in the shoreline area, subject to the limitation that in  
40 the event any ordinance adopted by the Town conflicts with a rule, regulation, or statute  
41 adopted by a county, State, or federal agency, then the county, State, or federal rule, regulation,  
42 or statute shall prevail over the Town ordinance to the extent of the conflict. The Town shall  
43 not adopt or extend an ordinance to apply to the shoreline area that would interfere or limit  
44 public trust rights of the people of the State or legal rights of access to such public trust areas in  
45 any way.

46 **SECTION 2.(d)** Police jurisdiction. – In addition to their authority within the  
47 corporate boundaries of the Town and as otherwise provided by law, Town law enforcement  
48 officers shall have authority to enforce ordinances adopted or extended pursuant to Section  
49 2.(c) of this act in the shoreline area, subject to the limitations of their subject matter  
50 jurisdiction and any existing enforcement authority in those areas held by county, State, or  
51 federal agencies. The Town may also enter into enforcement and mutual aid agreements with

1 county, State, and federal agencies to cooperatively enforce navigation, boating, water safety,  
2 resource protection, recreation, access, and public safety laws and regulations.

3 **SECTION 2.(e)** Additional powers. – The Town of Carolina Beach may:

4 (1) Hire one or more special officers to serve as harbormaster and to patrol and  
5 enforce the laws in the Town and shoreline area. The harbormaster and other  
6 officers hired under this section may exercise all the powers of a law  
7 enforcement officer generally within the Town, shall be entitled to all  
8 powers, privileges, and immunities afforded by law to regularly employed  
9 law enforcement officers of the Town, and are subject to all provisions of  
10 law relating to law enforcement officers, including training requirements and  
11 the requirement that an officer must take the oath of office required of a law  
12 enforcement officer.

13 (2) Own and operate facilities in the shoreline area, including: piers, docks,  
14 slips, quays, and bulkheads; boats and water transportation; moorings and  
15 mooring fields; boating safety equipment; dredging and channel  
16 maintenance equipment; boating access; and traffic control, navigational  
17 devices, lighting, and signage, subject to the limitations in G.S. 75A-15 and  
18 other applicable county, State, and federal laws.

19 **SECTION 3.** This act is effective when it becomes law.