

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 756
HOUSE BILL 603

AN ACT TO REVISE PORTIONS OF THE FAYETTEVILLE CITY CHARTER.

The General Assembly of North Carolina enacts:

Section 1. Section 5.13 of the Fayetteville City Charter is hereby repealed and a new Section 5.13 is enacted to read as follows:

No officer or employee of the Police Department or Fire Department of the City of Fayetteville shall be fined, suspended or discharged except for cause as provided herein.

(1) Grounds for suspension or discharge. Any member of the Police or Fire Department who violates any rule or regulation of either department as prescribed and promulgated by this Article or who commits any act of misconduct or offense that would be detrimental to the health, safety, welfare or morale of either department or the protection of lives or property of the people within the City of Fayetteville shall be subject to suspension or discharge pursuant to this section.

(2) Authority of the Chief of Police or the Fire Chief. If the Chief of Police or the Chief of the Fire Department determines that grounds for suspension or discharge exist, they shall have the authority, subject to the approval of the Civil Service Commission, to suspend the affected individual up to a period of 30 days without pay, or discharge the individual. In the event that the Chief of Police or the Chief of the Fire Department determine to take such action, they shall immediately notify in writing the individual affected, and said notice shall contain the following information:

(a) a clear and factual notice of the reasons for the recommended action in sufficient detail to enable the person charged to present evidence relating to them;

(b) notice of the names of those who have made allegations against the accused;

(c) the nature of the action to be taken, i.e., suspension, without pay, (not to exceed 30 days) or termination;

(d) that the individual has a right to a hearing before the Civil Service Commission, that he has 10 days to request the same, and that said request shall be in writing, directed to the Chairman of the Civil Service Commission;

(e) that the recommended action of the respective chief has to be approved by the Civil Service Commission, whether or not the individual requests a hearing;

(f) that in the event the individual does not request a hearing in writing within the time prescribed, that said hearing before the Civil Service Commission shall be waived; and

(g) that said notice of suspension shall be delivered to the individual in person or by certified mail.

(3) Action pending hearing. In the event that an individual requests a hearing before the Civil Service Commission as prescribed in subsection (d) above, the commission shall conduct said hearing no sooner than five, no more than 20 days from the date upon which it receives the written request for said hearing. If the individual shall request a postponement of the hearing beyond the 20-day time period, he shall so state in writing and by doing so shall waive any claim of prejudice to the hearing of his cause as a result of said delay. If an individual has been suspended pending a hearing and the individual requests a postponement of the hearing to a point in time beyond which the suspension would have expired, the commission shall have the authority to continue the suspension without pay until such time as the hearing is held.

(4) Conduct of the hearing. The hearing before the Civil Service Commission shall be fair and impartial, and the individual who has requested the hearing shall be entitled to:

- (a) the right to representation by an attorney at his own expense;
- (b) the right to cross-examine any witness;
- (c) a transcript of the proceedings;
- (d) the right to request the Civil Service Commission to subpoena witnesses in his or her behalf;
- (e) the right to testify in his own behalf, either sworn or unsworn; any other witness appearing before the hearing regardless of his or her interests shall be sworn;
- (f) the right to an open hearing, if requested in writing; otherwise, the hearing shall be closed.

The commission shall have the authority to subpoena witnesses and compel their attendance, and to compel the production of the records necessary for a proper investigation and fair determination at the hearing. Any commission member may ask questions of any witness.

The general rules of evidence shall be followed during the hearing, and all rulings on evidentiary matters shall be made by the Chairman of the Commission, or in his absence, the presiding officer. At the conclusion of all testimony, each side may be permitted to present oral argument. The individual who requested the hearing or his attorney shall speak first. At the conclusion of the arguments, the commission shall meet in closed session to make their decision.

(5) Action of the Commission. Based upon the evidence as presented and upon a majority vote of the commission, the commission shall have the authority to:

- (a) approve or disapprove the action of the respective chief;
- (b) suspend the individual without pay for an additional period of time not to exceed three months; or
- (c) impose a fine against the individual in an amount not to exceed 30 days' salary.

In the event that the commission's action results in reinstatement or disapproval of a suspension, the individual shall be entitled to back pay and all benefits

for that period of time from the date of the initial written notice to the individual until the hearing, exclusive of any period of postponement may be waived for good cause shown. The action of the commission with respect to the matters contained in this section shall be final and conclusive.

Sec. 2. Section 6.1 of the Fayetteville City Charter is hereby repealed and a new Section 6.1 is enacted to read as follows:

A commission of the City of Fayetteville to be known as the "Public Works Commission" as heretofore created, established and now existing, is hereby continued and the number of members shall increase, effective July 1, 1981, to four. The terms of office of the current members shall each be expanded for an additional year, with each term expiring four years from the date which the appointment was originally made. A new appointment shall be made in June of 1981, and it shall be for a term of four years. As each appointment expires, the city council shall, at its regular meeting in June of each year, elect a member of said commission for a term of four years to replace the expiring member.

Sec. 3. G.S. 160A-364 is amended by rewriting said paragraph to read as follows:

(1) Before the City of Fayetteville may adopt or amend any ordinance pursuant to Part 3 of this Article, the Cumberland County Joint Planning Board shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(2) Any person aggrieved by the recommendation of the Cumberland County Planning Board shall have the right to appeal the action of the planning board in writing to the Clerk of the City of Fayetteville within 10 days of the action of the planning board. If an appeal is timely filed, then the city council shall hold a public hearing with prior notice being published in accordance with subparagraph (1).

(3) If the planning board's recommendation was to rezone the property, and no appeal is filed pursuant to subparagraph (2), then at its next regular council meeting following the expiration of the time provided for appeal in subparagraph (2) above, the city council shall have the right to adopt the rezoning without further public hearing. A rezoning shall be defined as any change in the zoning classification of property, whether it be in whole, in part, or a combination of new classifications, or an initial zoning of property added to the city's jurisdiction by annexation or other action.

(4) If the action of the planning board was to recommend denial of the petition, and no appeal is taken within the time prescribed pursuant to subparagraph (2), then, the action recommended by the planning board shall be deemed to be the final action of the city council.

Sec. 4. G.S. 160A-516 is amended by adding a new subsection (g) to read:

"(g) The Redevelopment Commission is authorized to issue notes or other evidence of indebtedness to a bank or other private lending source for any purpose for which bonds may be issued and sold under this Article. The Redevelopment

Commission shall also have full power and authority to determine the terms of payment, including interest rates, and the security to be issued, if any, by the Redevelopment Commission to secure the notes or other evidences of indebtedness."

Sec. 5. Section 3 and Section 4 shall apply to the City of Fayetteville only.

Sec. 6. This act shall apply only to Cumberland County, and to all municipalities located in that county.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.