

GENERAL ASSEMBLY OF NORTH CAROLINA  
1983 SESSION

CHAPTER 504  
HOUSE BILL 586

AN ACT TO AMEND CHAPTER 26 OF THE PRIVATE LAWS OF 1937, AS AMENDED, TO PROVIDE THAT THE FIREMEN'S PENSION FUND OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of Section 1 of Chapter 26 of the Private Laws of 1937, as rewritten by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Section 1. The Firemen's Pension Fund of Wilmington, North Carolina, as created by Chapter 26 of the Private Laws of 1937 and laws amendatory thereto, shall be administered by a board to be known as the "Pension Board of the City of Wilmington". Said Board shall consist of five members as follows: the City Manager who will serve as chairman, the Director of Finance who will serve as treasurer, the Director of Personnel who will serve as secretary, an employee who is a member of the Police Pension Fund and an employee who is a member of the Firemen's Pension Fund. At such time that all members of a fund are retired, a retiree from the fund shall serve. All members of the Pension Board shall be appointed by the council of the City. The term of office of the City Manager, Director of Finance and Director of Personnel shall be governed by their terms of office. Resignation of such a member of the Board shall be deemed to have occurred when he ceases to hold office, with the vacancy being filled by his successor. The employee or retiree members shall serve four-year terms, the terms to be staggered each two years. The members of the Board shall receive no compensation for their services.

The Board shall hold meetings upon such notice, at such place or places, and at such times as its members from time to time determine. A majority of the members of the Board at the time in office shall constitute a quorum for the transaction of business. All action taken by the Board at any meeting shall be by vote of the majority of its members present at such meeting; provided, however, the Board may act without a meeting by unanimous action of its members evidenced by a resolution signed by all such members.

During the interim between meetings of the full Pension Board, the Pension Board shall act through an Executive Committee to be composed of: the City Manager, Director of Finance, and Director of Personnel. Action by the Executive Committee shall be deemed that of the Pension Board, subject to Board review at its next meeting. Such action by the Executive Committee shall be by vote of the majority of its

members. Provided that, if there is no majority of its members then in office or there is only one member then in office, action shall be by the full Pension Board.

The members of the Pension Board, and each of them, shall be free from all liability, joint or several, for their acts, omissions and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the fund, and the City shall indemnify and save them, and each of them, harmless from effects and consequences of their acts, missions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence. No member of the Pension Board shall be liable for the acts of any other member of the Pension Board.

The Pension Board may, from time to time, consider and make recommendations for changes to the council of the City of Wilmington, provided no change in the fund shall be submitted or discussed with council of the City in public session prior to a called or regularly scheduled meeting of the Pension Board and submission to and discussion by the Pension Board at least 30 days prior to submission to council."

Sec. 2. Section 2 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is amended by rewriting the first sentence to read:

"That any funds now held by the Pension Board of the Firemen's Pension and Relief Fund of the City of Wilmington, or at the time of the ratification of this act being administered by it, or funds received by the Board of Trustees of the Wilmington Firemen's Relief Fund after ratification of this act shall be paid over by said Trustees to the Treasurer of the Pension Board of the Firemen's Pension Fund of Wilmington, North Carolina, created by this act and by the latter board held, administered, managed, and disbursed under the provisions of this act for the purposes and benefits herein defined."

Sec. 3. Section 2 (2) of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the word "Commissioners" and substitute in lieu thereof the word "council".

Sec. 4. Section 2 (3) of Chapter 26 of the Private Laws of 1937, as amended by Chapter 563 of the 1943 Session Laws and by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the second sentence thereof.

Sec. 5. Section 3 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Sec. 3. That the Pension Board organized as herein provided shall have control over the funds derived from the provisions of this act, and it may continue to receive and require the deposit of them as received, to the credit of said fund, or to invest the same in the Firemen's Pension Fund of Wilmington, North Carolina, in one or more of the investments named in or authorized by either G.S. 159-30 or G.S. 159-31. The said Board may, and it is authorized and empowered to establish such rules and regulations from time to time, for the disposition, investment, preservation, and administration of said fund, not in conflict therewith, as it may deem best."

Sec. 6. Section 4 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Sec. 4. That the said Pension Board shall make a full report of the status of said fund to the council of the City of Wilmington, a copy to be forwarded to the Chief of the Wilmington Fire Department, at the first regular meeting of said council in January of each year."

Sec. 7. Section 9 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the words "Commissioners of the City of Wilmington are" and substituting in lieu thereof the words "council of the City of Wilmington is".

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. None of the provisions of this act shall create an additional liability for the Wilmington Firemen's Pension Fund.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.