

**ORDINANCE NO. 13 –069**

**TO REVISE *NEW CASTLE COUNTY CODE* CHAPTER 2 (“ADMINISTRATION”), ARTICLE 5 (“DEPARTMENTS AND OFFICES”), DIVISION 2.05.500 (“DEPARTMENT OF ADMINISTRATION”) SECTION 2.05.505 (“EMPLOYEES’ RETIREMENT SYSTEM BOARD OF TRUSTEES—CREATED; ORGANIZATION; DUTIES GENERALLY”) TO ENSURE THE FUTURE VIABILITY OF THE NEW CASTLE COUNTY EMPLOYEES’ RETIREMENT SYSTEM BY EXPANDING AND ADDING TO THE RETIREMENT SYSTEM BOARD OF TRUSTEES TWO SUBJECT MATTER EXPERTS**

**WHEREAS**, the New Castle County Employees’ Retirement System Board of Trustees, in fulfillment of its fiduciary duties, seeks to secure the fiscal soundness of the Pension Fund; and

**WHEREAS**, the New Castle County Employees’ Retirement System Board of Trustees needs the advice and direction of subject matter experts; and

**WHEREAS**, the New Castle County Council and the New Castle County Executive understand the importance of having the service of subject matter experts who have significant expertise and will devote their time and energy to guiding the fund; and

**WHEREAS**, the New Castle County Council and the New Castle County Executive understand the benefits of adding subject matter experts for additional advice and direction to the New Castle County Employees’ Retirement System Board of Trustees.

**NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**

Section 1. *New Castle County Code* Chapter 2 (“Administration”), Article 5 (“Department and Offices”) Division 2.05.500 (“Department Of Administration”), Section 2.05.505 (“Employees’ Retirement System Board of Trustees—Created; organization; duties generally”), is hereby amended by the deletion of the strike through text as set forth below and the addition of the underlined text as set forth below:

**Sec. 2.05.505. Employees’ Retirement System Board of Trustees—Created; organization; duties generally.**

A. The pension program created under Article 4 of Chapter 26 of this Code shall be construed to be a trust separate and distinct from all other entities. The responsibility for the direction and operation of the program and for making effective the program is hereby vested in the Employees’ Retirement System Board of Trustees. The Board shall consist of ~~twelve (12)~~ fourteen (14) members as follows:

1. The Chief Human Resources Officer ex officio.
2. The Chief Financial Officer ex officio.

3. The County Executive shall appoint ~~six (6)~~ seven (7) members according to the following system:
  - a. Local 459 of the American Federation of State, County and Municipal Employees, AFL-CIO, shall submit three (3) names of employees...
  - b. Local 1607 of the American Federation of State, County and Municipal Employees, AFL-CIO, shall ...
  - c. Local 3109 of the American Federation of State, County and Municipal Employees, AFL-CIO, shall ...
  - d. The Fraternal Order of Police shall ...
  - e. Local 3911 of the American Federation of State, County and Municipal Employees (AFSCME) shall ...
  - f. The Pension Plan Administrator shall submit a list of non-union merit system employees...

The County Executive shall appoint one (1) member from each panel of three (3) names submitted as provided in Subsections 3.a. through 3.e., one additional subject matter expert who is, or was, currently in the pension, banking or investment security business and one (1) member from the list provided in Subsection 3.f. Each of these members shall serve for terms of three (3) years, and until successors are appointed and qualified.

4. County Council shall appoint ~~four (4)~~ five (5) members, none of whom shall be an official or employee of the County according to the following system:
  - a. Two (2) of the members appointed to the Board of Trustees shall be in the banking or investment security business.
  - b. One (1) of the members appointed to the Board of Trustees shall be a retired member of the program.
  - c. One (1) of the members appointed to the Board of Trustees shall be a subject matter expert who is, or was, in the pension, banking or investment security business.
  - e.d. Each of these members shall serve for a term of three (3) years and until a successor is appointed and has qualified.
  - e. Of those members appointed by County Council, one (1) shall be Chairperson. If none of the members appointed by the Council is designated by the Council as Chairperson at the time of appointment, the Chairperson shall be chosen by the Council appointees and shall serve as Chairperson until the Council designates a Chairperson

B. Each trustee shall be entitled to one (1) vote on the Board, and the concurrence of ~~seven (7)~~ eight (8) trustees shall be necessary for a decision at any regular or special meeting.

C. Every ordinance ...

D. The board may...

Section 2. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the unconstitutional or void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If any provision of this Ordinance is found to be unconstitutional or void all applicable former ordinances, resolutions, or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 3. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive or as otherwise provided in 9 Del. C. Section 1156.

Adopted by County Council of  
New Castle County on:

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President of County Council  
New Castle County

Approved on:

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County Executive  
New Castle County

**SYNOPSIS:** This amendment adds additional board members who have expertise in the banking, pension or investment security business in an effort to ensure the viability of the County Pension System.

**FISCAL NOTE:**