

## Legislation Text

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Calling upon the Board of Pensions and Retirement ("Pension Board") to administer the pension and retirement system in accordance with Bill No. 040326, which eliminated the "income offset" provisions for disabled City pensioners, and, if the Pension Board refuses to follow the provisions of Bill No. 040326, authorizing Council to retain counsel to file a lawsuit to compel the Pension Board to do so.

WHEREAS, Bill No. 040326 was duly enacted into law under the provisions of Section 2-202 of the Philadelphia Home Rule Charter ("Charter"), Council having overridden the Mayor's veto by a vote of 15-0 on February 17, 2005; and

WHEREAS, Bill No. 040326 amended the City of Philadelphia Public Employees Retirement Code to delete the "income offset" provisions previously applicable to disabled City pensioners; and

WHEREAS, Under Section 2-308 of the Charter, it is within the exclusive legislative power of Council to enact a pension and retirement system for City employees, and under Section 6-601 of the Charter, it is the duty of the Board of Pensions and Retirement ("Pension Board") to administer the pension and retirement system as enacted by Council; and

WHEREAS, Notwithstanding Council's exclusive power to enact the City's pension system and notwithstanding the Pension Board's duty to administer the pension system as enacted by Council, the Pension Board, relying on the advice of the City Solicitor, has refused to follow the provisions of Bill No. 040326 with respect to all persons covered by that Bill; and

WHEREAS, Once Council has enacted legislation over the Mayor's veto, Council's legislative power should not be subject to the further veto of the City Solicitor or the Pension Board. Once a bill has been enacted into law, the City Solicitor should advise City agencies to follow that law, and a City agency whose duty is to administer City ordinances is duty-bound to follow the law as enacted by Council; now, therefore,

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the Council calls upon the City Solicitor to advise the Board of Pensions and Retirement to follow all provisions of Bill No. 040326, and calls upon the Board of Pensions and Retirement to carry out its duty of administering the pension and retirement system as enacted by Council, including the provisions of Bill No. 040326.

FURTHER RESOLVED, That if the Board of Pensions and Retirement continues to ignore the provisions of Bill No. 040326, Council is authorized to retain counsel to file a lawsuit to compel the Board of Pensions and Retirement to follow the provisions of Bill No. 040326, and to establish, in such lawsuit, the duty of the City Solicitor to advise City administrative agencies to follow the law as enacted by the Council.