

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 327
PROPOSED COMMITTEE SUBSTITUTE H327-PCS30464-SH-7

Short Title: Fire and Rescue Pension Revisions of 2013.-AB

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL, TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND RESCUE SQUAD WORKERS' ADVISORY PANEL, TO ALLOW IN-SERVICE DISTRIBUTIONS TO PARTICIPANTS, TO PROHIBIT CERTAIN FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as rewritten:

"Article 86.

"North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving ~~fire fighting~~ fire fighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, ~~fire fighting~~ fire fighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue squads' activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~ firefighters and rescue squad workers," as defined by this Article, there is created in this State a fund to be known, and designated as "The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.



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1 The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund is
2 established to provide pension allowances and other benefits for eligible ~~firemen~~ firefighters
3 and rescue squad workers in the State who elect to become members of the fund. The board of
4 trustees created by this Article shall have authority to administer the fund and shall make
5 necessary rules and regulations to carry out the provisions of this Article.

6 **§ 58-86-2. Definitions.**

7 The following words and phrases as used in this Article, unless a different meaning is
8 plainly required by the context, shall have the following meanings:

- 9 (1) "Board" means the Board of Trustees of the Local Governmental Employees'
10 Retirement System.
- 11 (2) "Chair" means the chair of the Board of Trustees of the Local Governmental
12 Employees' Retirement System.
- 13 (3) "Director" means the Director of the Retirement Systems Division of the
14 North Carolina Department of State Treasurer. The Director shall promptly
15 transmit to the State Treasurer all moneys collected on behalf of members,
16 which moneys shall be deposited by the State Treasurer into the fund.
- 17 (4) "Eligible fire department" means a bona fide fire department which is
18 certified to the Commissioner of Insurance by the governing body thereof,
19 and determined as classified as not less than class "9S," and said fire
20 department holds training sessions not less than four hours monthly.
- 21 (5) "Eligible firefighter" means all persons 18 years of age or older who are
22 firefighters of the State of North Carolina or any political subdivision
23 thereof, including those performing such functions in the protection of life
24 and property through fire fighting within a county or city governmental unit.
25 "Eligible firefighter" shall also mean an employee of a county whose sole
26 duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or
27 firefighter of the county. "Eligible firefighter" shall also mean those persons
28 meeting the other qualifications of this Article, not exceeding 25 volunteer
29 firefighters plus one additional volunteer firefighter per 100 population in
30 the area served by their respective departments.
- 31 (6) "Eligible rescue or emergency medical services squad" means organized
32 rescue squad units eligible for membership in the North Carolina
33 Association of Rescue and Emergency Medical Services, Inc.
- 34 (7) "Eligible rescue squad worker" means all persons 18 years of age or older
35 who are members of a rescue or emergency medical services squad that is
36 eligible for membership in the North Carolina Association of Rescue and
37 Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also
38 mean those persons meeting the other qualifications of this Article.
- 39 (8) "Fully credited service" means a period of time for which the Board has
40 received certification that a member has met all eligibility requirements for
41 participation in the Pension Fund and for which the Board has received
42 timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of
43 monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may
44 purchase fully credited service for any period of service as set forth in
45 G.S. 58-86-45.
- 46 (9) "Inactive member" means a member of the fund who is not on a leave of
47 absence under G.S. 58-86-95 and who is not making timely monthly
48 payments under G.S. 58-86-35 or G.S. 58-86-40.
- 49 (10) "Member" means an eligible firefighter or eligible rescue squad worker who
50 has elected to participate in the North Carolina Firefighters' and Rescue
51 Squad Workers' Pension Fund.

- 1 (11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad
2 Workers' Pension Fund.
- 3 (12) "Training sessions" for eligible rescue squad workers means sessions in
4 which attendance will result in the preparation of, or knowledge gained by,
5 the member in the area of rescue, emergency medical services, injury
6 prevention, or protection of life and property. Such drill or training sessions
7 held by the eligible rescue squad unit to meet the requirements of this Article
8 shall be held for the purpose of providing a learning or preparation
9 experience for the members.
- 10 (13) "Training sessions" for eligible firefighters means sessions in which
11 attendance will result in the preparation of, or knowledge gained by, the
12 member in the area of fire prevention, fire suppression, or protection of life
13 and property. Such drill or training sessions held by the eligible fire
14 department to meet the requirements of this Article shall be held for the
15 purpose of providing a learning or preparation experience for the members.

16 **"§ 58-86-5. Creation and membership of board of trustees; compensation.**

17 ~~There is created a board to be known as the "Board of Trustees of the North Carolina~~
18 ~~Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

19 ~~The board shall consist of six members:~~

- 20 (1) ~~The State Treasurer, who shall act as chairman.~~
21 (2) ~~The State Insurance Commissioner.~~
22 (3) ~~Repealed by Session Laws 1993, c. 9.~~
23 (4) ~~Four members to be appointed by the Governor; one a paid fireman, one a~~
24 ~~volunteer fireman, one volunteer rescue squad worker, and one representing~~
25 ~~the public at large, for terms of four years each. These members may~~
26 ~~succeed themselves.~~

27 ~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund"~~
28 ~~shall continue to serve until the expiration of their terms. No member of the board shall receive~~
29 ~~any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's~~
30 ~~attendance at duly and regularly called and held meetings of the board of trustees.~~

31 **"§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.**

32 ~~There is created an advisory panel to be known as the Firefighters' and Rescue Squad~~
33 ~~Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."~~

34 ~~The advisory panel shall consist of seven persons:~~

- 35 (1) The Director of the Retirement Systems Division of the North Carolina
36 Department of State Treasurer or his or her designee, who shall act as chair.
37 (2) A designee of the State Insurance Commissioner.
38 (3) Five members to be appointed by the Board of Trustees of the Local
39 Governmental Employees' Retirement System: one paid firefighter, one
40 volunteer firefighter, one paid rescue squad worker, one volunteer rescue
41 squad worker, and one representing the public at large, for terms of four
42 years each. One member of the advisory panel appointed by the Board of
43 Trustees of the Local Governmental Employees' Retirement System must be
44 a member of that Board. Members of the advisory panel may succeed
45 themselves if reappointed by the Board of Trustees of the Local
46 Governmental Employees' Retirement System.

47 The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad
48 Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the
49 expiration of their current terms. No member of the advisory panel shall receive any salary,
50 compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at
51 duly and regularly called and held meetings of the advisory panel.

1 **"§ 58-86-10. Powers and duties of the board.**

2 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
3 System shall administer the Pension Fund. The board shall request appropriations out of the
4 general fund for administrative expenses and to provide for the financing of this pension fund,
5 employ necessary clerical assistance, determine all applications for pensions, provide for the
6 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
7 ~~government-governance~~ of this fund, prescribe rules and regulations of eligibility of persons to
8 receive pensions, expend funds in accordance with the provisions of this Article, and generally
9 exercise all other powers necessary for the administration of the fund created by this Article.

10 **"§ 58-86-11. Powers and duties of the advisory panel.**

11 The advisory panel shall meet at least once annually upon call of the chair. The advisory
12 panel shall have no administrative authority, but shall prepare an annual report to the Board of
13 Trustees of the North Carolina Local Governmental Employees' Retirement System regarding
14 the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension
15 Fund.

16 **"§ 58-86-15. Director.**

17 ~~There is created an office to be known as Director of the North Carolina Firemen's and~~
18 ~~Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its~~
19 ~~pleasure. The director shall be subject to the provisions of the State Personnel Act. The director~~
20 ~~shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall~~
21 ~~be deposited by the State Treasurer into the fund.~~

22 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
23 **fund; expenditures.**

24 The State Treasurer shall be the custodian of the North Carolina ~~Firemen's~~ Firefighters' and
25 Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the
26 provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General
27 Assembly out of the general fund to provide money for administrative expenses shall be
28 handled in the same manner as any other general fund appropriation. One-fourth of the
29 appropriation made out of the general fund to provide for the financing of the pension fund
30 shall be transferred quarterly to a special fund to be known as the North Carolina ~~Firemen's~~
31 Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State
32 Treasurer's office a special fund to be known as the North Carolina ~~Firemen's~~ Firefighters' and
33 Rescue Squad Workers' Pension Fund, and all contributions made by the members of this
34 pension fund shall be deposited in the special fund. All expenditures for refunds, investments or
35 benefits shall be in the same manner as expenditures of other special funds.

36 **"§ 58-86-25. ~~"Eligible firemen" defined; determination~~ Determination and certification**
37 **~~of volunteers meeting qualifications.~~ eligible firefighters.**

38 ~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political~~
39 ~~subdivision thereof, including those performing such functions in the protection of life and~~
40 ~~property through fire fighting within a county or city governmental unit and so certified to the~~
41 ~~Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire~~
42 ~~department which, as determined by the Commissioner, is classified as not less than class "9"~~
43 ~~or class "A" and "AA" departments in accordance with rating methods, schedules,~~
44 ~~classifications, underwriting rules, bylaws or regulations effective or applied with respect to the~~
45 ~~establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter~~
46 ~~or by such other reasonable methods as the Commissioner may determine, and which operates~~
47 ~~fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said~~
48 ~~fire department holds drills and meetings not less than four hours monthly and said firemen~~
49 ~~attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall~~
50 ~~also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire~~
51 ~~marshal, assistant fire marshal, or firefighter of the county, provided the board of county~~

1 commissioners of that county certifies the employee's attendance at no less than 36 hours of all
2 drills and meetings in each calendar year. ~~"Eligible firemen" shall also mean those persons~~
3 ~~meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one~~
4 ~~additional volunteer fireman per 100 population in the area served by their respective~~
5 ~~departments.~~ Eligible firefighters must attend 36 hours of training sessions in each calendar
6 year. Each eligible fire department shall annually determine and report the names of those
7 firemen-firefighters meeting the eligibility qualifications of this section Article to its respective
8 governing body, which upon determination of the validity and accuracy of the qualification
9 shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's
10 Association shall provide a list of those persons meeting the eligibility requirements of this
11 section Article to the State Treasurer by January 31 of each year. For the purposes of the
12 preceding sentence, the governing body of a fire department operated: by a county is the county
13 board of commissioners; by a city is the city council; by a sanitary district is the sanitary
14 district board; by a corporation, whether profit or nonprofit, is the corporation's board of
15 directors; and by any other entity is that group designated by the board. An "eligible firefighter"
16 may not also qualify as an "eligible rescue squad worker" in order to receive double benefits
17 available under this Article.

18 **"§ 58-86-30. ~~"Eligible rescue squad worker" defined; determination~~ Determination and**
19 **certification of eligibility. "eligible rescue squad worker."**

20 ~~"Eligible rescue squad worker" means a person who is a member of a rescue or emergency~~
21 ~~medical services squad that is eligible for membership in the North Carolina Association of~~
22 ~~Rescue and Emergency Medical Services, Inc., and who has attended a minimum of Eligible~~
23 ~~rescue squad workers must attend at least 36 hours of training and meetings in the last sessions~~
24 ~~in each calendar year. Each rescue or emergency medical services squad eligible for~~
25 ~~membership in the North Carolina Association of Rescue and Emergency Medical Services,~~
26 ~~Inc., must file a roster certified by the secretary of the association of those rescue or emergency~~
27 ~~medical services squad workers meeting the requirements of this section with the State~~
28 ~~Treasurer by January 31 of each calendar year.~~

29 ~~"Eligible rescue squad worker" does not mean "eligible fireman" as defined by~~
30 ~~G.S. 58-86-25, nor may an An "eligible rescue squad worker" may not qualify also as an~~
31 ~~"eligible fireman" firefighter" in order to receive double benefits available under this Article.~~

32 **"§ 58-86-35. ~~Firemen's~~ Firefighters' application for membership in fund; monthly**
33 **payments by members; payments credited to separate accounts of members;**
34 **termination of membership.**

35 Those ~~firemen-firefighters~~ who are eligible pursuant to G.S. 58-86-25 may ~~make~~
36 ~~application for membership to the board.~~ apply to the board for membership. Each ~~fireman~~
37 ~~firefighter~~ upon becoming a member of the fund shall pay the director of the fund the sum of
38 ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after March~~
39 ~~31 subsequent to~~ the end of the calendar year in which the month occurred. The Pension Fund
40 shall not award fully credited service based on payments received later than March 31
41 subsequent to the end of the calendar year in which the month occurred, unless the payment is
42 applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the
43 separate account of the member and shall be kept by the custodian so it is available for payment
44 on withdrawal from membership or retirement.

45 A member may elect to terminate membership in the fund at ~~anytime~~ any time and request
46 the refund of payments previously made to the fund. However, a member's delinquency in
47 making the monthly payments required by this section does not result in the termination of
48 membership without such an election by the member.

49 **"§ 58-86-40. ~~Rescue squad worker's~~ application for membership in funds; monthly**
50 **payments by members; payments credited to separate accounts of members;**
51 **termination of membership.**

1 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for
2 membership. Each eligible rescue squad worker upon becoming a member shall pay the
3 director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no
4 later than ~~90 days after March 31~~ subsequent to the end of the calendar year in which the month
5 occurred. The Pension Fund shall not award fully credited service based on payments received
6 later than March 31 subsequent to the end of the calendar year in which the month occurred,
7 unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be
8 credited to the separate account of the member and shall be kept by the custodian so it is
9 available for payment on withdrawal from membership or retirement.

10 A member may elect to terminate membership in the fund at ~~anytime~~ any time and request
11 the refund of payments previously made to the fund. However, a member's delinquency in
12 making the monthly payments required by this section does not result in the termination of
13 membership without such an election by the member.

14 **"§ 58-86-45. Additional retroactive membership.**

15 (a) ~~Any fireman or rescue squad worker who is now eligible and is a member of a fire~~
16 ~~department or rescue squad chartered by the State of North Carolina and who has not~~
17 ~~previously elected to become a member may make application through the board of trustees for~~
18 ~~membership in the fund on or before March 31, 2001. The person shall make a lump sum~~
19 ~~payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to~~
20 ~~become a member, plus interest at an annual rate of eight percent (8%), for each year of his~~
21 ~~retroactive payments. Upon making the lump sum payment, the person shall be given credit for~~
22 ~~all prior service in the same manner as if he had made application for membership at the time~~
23 ~~he first became eligible. Any member who made application for membership subsequent to the~~
24 ~~time he was first eligible and did not receive credit for prior service may receive credit for this~~
25 ~~prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the~~
26 ~~time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year~~
27 ~~of his retroactive payments. Upon making this lump sum payment, the date of membership~~
28 ~~shall be the same as if he had made application for membership at the time he was first eligible.~~
29 ~~Any fireman or rescue squad worker who has applied for prior service under this subsection~~
30 ~~shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by~~
31 ~~June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1)~~
32 ~~of this section.~~

33 (a1) ~~Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a
34 current or former member of a fire department or rescue squad chartered by the State of North
35 Carolina may purchase credit for any periods of service to any chartered fire department or
36 rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings
37 Fund equal to the full liability of the service credits calculated on the basis of the assumptions
38 used for purposes of the actuarial valuation of the system's liabilities, which payment shall take
39 into account the retirement allowance arising on account of the additional service credit
40 commencing at the earliest age at which the member could retire on a retirement allowance, as
41 determined by the board of trustees upon the advice of the consulting actuary, plus an
42 administrative fee to be set by the board of trustees. This provision for the payment of a lump
43 sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service
44 credits for months as to which timely payments were not previously made pursuant to
45 G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

46 (b) An eligible ~~fireman~~ firefighter or rescue squad worker who is not yet 35 years old
47 may apply to the board of trustees for membership in the fund at any time. Upon becoming a
48 member, the worker may make a lump sum payment of ten dollars (\$10.00) per month
49 retroactively to the time the worker first became eligible to become a member, plus interest at
50 an annual rate to be set by the board upon advice from actuary for each year of retroactive
51 payments. Upon making this lump sum payment, the worker shall be given credit for all prior

1 service in the same manner as if the worker had applied for membership upon first becoming
2 eligible.

3 A member who is not yet 35 years old may receive credit for the prior service upon making
4 a lump sum payment of ten dollars (\$10.00) for each month since the worker first became
5 eligible, plus interest at an annual rate to be set by the board for each year of retroactive
6 payments. Upon making this lump sum payment, the date of membership shall be the same as if
7 the worker had applied for membership upon first becoming eligible.

8 **"§ 58-86-55. Monthly pensions upon retirement.**

9 Any member who has served 20 years as an "eligible ~~fireman~~firefighter" or "eligible
10 rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
11 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
12 pension from this fund. The monthly pension shall be in the amount of one hundred seventy
13 dollars (\$170.00) per month. Any retired ~~fireman~~firefighter receiving a pension shall, effective
14 July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

15 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
16 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall
17 receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder
18 until the member's official duties as a fireman or rescue squad worker for which the member is
19 paid compensation shall have been terminated and the member shall have retired as such
20 according to standards or rules fixed by the board of trustees.~~

21 A member who is totally and permanently disabled while in the discharge of the member's
22 official duties as a result of bodily injuries sustained or as a result of extreme exercise or
23 extreme activity experienced in the course and scope of those official duties and who leaves the
24 fire or rescue squad service because of this disability shall be entitled to be paid from the fund a
25 monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning
26 the first month after the member's fifty-fifth birthday. All applications for disability are subject
27 to the approval of the board who may appoint physicians to examine and evaluate the disabled
28 member prior to approval of the application, and annually thereafter. Any disabled member
29 shall not be required to make the monthly payment of ten dollars (\$10.00) as required by
30 G.S. 58-86-35 and G.S. 58-86-40.

31 A member who is totally and permanently disabled for any cause, other than line of duty,
32 who leaves the fire or rescue squad service because of this disability and who has at least 10
33 years of service with the pension fund, may be permitted to continue making a monthly
34 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
35 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
36 a pension as provided by this section. All applications for disability are subject to the approval
37 of the board who may appoint physicians to examine and evaluate the disabled member prior to
38 approval of the application and annually thereafter.

39 A member who, because ~~his~~the member's residence is annexed by a city under Part 2 or
40 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
41 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
42 General Statutes, or whose volunteer department is taken over by a city or county, and because
43 of such annexation or takeover is unable to perform as a ~~fireman~~firefighter or rescue squad
44 worker of any status, and if the member has at least 10 years of service with the pension fund,
45 may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund
46 until the member has made contributions for a total of 240 months. The member upon attaining
47 the age of 55 years and completion of such contributions shall be entitled to receive a pension
48 as provided by this section. Any application to make monthly contributions under this section
49 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
50 member.

1 The pensions provided shall be in addition to all other pensions or benefits under any other
2 statutes of the State of North Carolina or the United States, notwithstanding any exclusionary
3 provisions of other pensions or retirement systems provided by law.

4 **"§ 58-86-60. Payments in lump sums.**

5 The board shall direct payment in lump sums from the fund in the following cases:

- 6 (1) To any ~~fireman~~-firefighter or rescue squad worker upon the attaining of the
7 age of 55 years, who, for any reason, is not qualified to receive the monthly
8 retirement pension and who was enrolled as a member of the fund, an
9 amount equal to the amount paid into the fund by him. This provision shall
10 not be construed to preclude any active ~~fireman~~-firefighter or rescue squad
11 worker from completing the requisite number of years of active service after
12 attaining the age of 55 years necessary to entitle ~~him~~-the firefighter or rescue
13 squad worker to the pension.
- 14 (2) If any ~~fireman~~-firefighter or rescue squad worker dies before attaining the
15 age at which a pension is payable to ~~him~~-the firefighter or rescue squad
16 worker under the provisions of this Article, there shall be paid to his ~~widow,~~
17 or her surviving spouse, or if there be no ~~widow,~~-surviving spouse, to the
18 person responsible for his or her child or children, or if there be no ~~widow~~
19 surviving spouse or children, then to his or her heirs at law as may be
20 determined by the board or to his or her estate, if it is administered and there
21 are no heirs, an amount equal to the amount paid into the member's separate
22 account by or on behalf of the said ~~fireman~~-firefighter or rescue squad
23 worker.
- 24 (3) If any ~~fireman~~-firefighter or rescue squad worker dies after beginning to
25 receive the pension payable to ~~him~~-the firefighter or rescue squad worker by
26 this Article, and before receiving an amount equal to the amount paid into
27 the fund by ~~him,~~-him or her, there shall be paid to his ~~widow,~~-or her
28 surviving spouse, or if there be no ~~widow,~~-surviving spouse, then to the
29 person responsible for his or her child or children, or if there be no ~~widow~~
30 surviving spouse or children, then to his or her heirs at law as may be
31 determined by the board or to his or her estate, if it is administered and there
32 are no heirs, an amount equal to the difference between the amount paid into
33 the member's separate account by or on behalf of the said ~~fireman~~-firefighter
34 or rescue squad worker and the amount received by him or her as a
35 pensioner.
- 36 (4) Any member ~~with five or more years of contributing service and~~ who
37 withdraws from the fund shall, upon proper application, be paid all moneys
38 without accumulated earnings on the payments after the time they were
39 made. ~~If any member who has less than five years of contributing service~~
40 ~~made contributions, or any person, firm, corporation, or other entity has~~
41 ~~made contributions on behalf of that member and that member withdraws~~
42 ~~from the fund, the member, person, firm, corporation, or other entity shall be~~
43 ~~entitled to a refund equal to the amount of contributions made by them after~~
44 ~~the Board has been notified of the contributor's desire to be refunded its~~
45 ~~contributions upon the member's withdrawal. A member may not purchase~~
46 time under G.S. 58-86-45 for which he or she has received a refund.

47 **"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

48 If, for any reason, the fund created and made available for any purpose covered by this
49 Article shall be insufficient to pay in full any pension benefits, or other charges, then all
50 benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists.

1 No claim shall accrue with respect to any amount by which a pension or benefit payment shall
2 have been reduced.

3 **"§ 58-86-70. Provisions subject to future legislative change.**

4 These pensions shall be subject to future legislative change or revision, and no member of
5 the fund, or any person, is deemed to have acquired any vested right to a pension or other
6 payment provided by this Article.

7 **"§ 58-86-75. Determination of creditable service; information furnished by applicants for
8 membership.**

9 The board shall determine by appropriate rules and regulations the number of years' credit
10 for service of ~~firemen~~ firefighters and rescue squad workers. ~~Firemen~~ Firefighters and rescue
11 squad workers who are now serving as such shall furnish the board with information upon
12 applying for membership as to previous service. Notwithstanding any other provisions of this
13 Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad
14 workers under such terms and conditions that the Board may adopt when the Board determines
15 that an eligible ~~fireman~~ firefighter or rescue squad worker has been denied such service credits
16 through no fault of his or her own.

17 **"§ 58-86-80. Length of service not affected by serving in more than one department or
18 squad; transfer from one department or squad to another.**

19 A ~~fireman's~~ firefighter's or rescue squad worker's length of service shall not be affected by
20 the fact that he or she may have served with more than one department or squad, and upon
21 transfer from one department or squad to another, notice of the fact shall be given to the board.

22 **"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

23 Except for the applications of the provisions of G.S. 110-136, and in connection with a
24 court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to
25 attachment, garnishments or judgments against the ~~fireman~~ firefighter or rescue squad worker
26 entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

27 ~~**"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations
28 allowed.**~~

29 ~~Any member who is a member of a domiciled employees' or retirees' association that has at
30 least 2,000 members, the majority of whom are active or retired employees of the State or
31 public school employees, may authorize, in writing, the periodic deduction from the member's
32 retirement benefits a designated lump sum to be paid to the employees' or retirees' association.
33 The authorization shall remain in effect until revoked by the member. A plan of deductions
34 pursuant to this section shall become void if the employees' or retirees' association engages in
35 collective bargaining with the State, any political subdivision of the State, or any local school
36 administrative unit.~~

37 **"§ 58-86-95. Leaves of absence; inactive membership.**

38 (a) Any member who resigns as an eligible firefighter or an eligible rescue squad
39 worker, whichever is applicable, may withdraw from the fund and seek a refund under
40 G.S. 58-86-60 or take a leave of absence as provided by G.S. 58-86-95, or he or she will be
41 considered an inactive member.

42 (b) In order to take a leave of absence, any member not on active military service must
43 provide the office of the director with written notice that the member is taking a leave of
44 absence. Any member not on active military service on leave of absence for more than five
45 years in any six-year period shall be considered an inactive member.

46 (c) A member is not eligible for service credit for the time he or she is on leave of
47 absence and is not required to make monthly payments for that time. During the time a member
48 is on leave of absence he or she is not eligible for benefits from the pension fund. A member
49 who has taken a leave of absence may subsequently withdraw from the pension fund and seek a
50 refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the
51 appropriate person or persons may seek a refund under G.S. 58-86-60.

1 (d) Any member not on active military service who does not make contributions for two
2 consecutive years and has not taken a leave of absence shall be considered an inactive member.

3 (e) The director of the pension fund shall communicate annually with each eligible fire
4 department and eligible rescue or emergency medical services squad and transmit a list of those
5 persons on a leave of absence. The director may consult with eligible fire departments and
6 eligible rescue or emergency medical services squads with regard to the presumed status of
7 members.

8 (f) The director of the pension fund shall maintain records of all inactive members of
9 the fund, including dates of termination of service at an eligible fire department and eligible
10 rescue or emergency medical services squad, and may consult with eligible fire departments
11 and eligible rescue or emergency medical services squads with regard to the presumed status of
12 members.

13 (g) Members on active military service must notify the director prior to commencement
14 of active military service and subsequent to return from active duty and shall be granted a leave
15 of absence for the entire time of the military service."

16 **SECTION 1.(b)** G.S. 25-9-406(i) reads as rewritten:

17 "(i) Inapplicability. – This section does not apply to an assignment of a
18 health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment
19 or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a
20 right the transfer of which is prohibited or restricted by any of the following statutes to the
21 extent that the statute is inconsistent with subsection (f) of this section:

22 ...

23 (4) North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension
24 Fund (Article 86 of Chapter 58 of the General Statutes).

25 "

26 **SECTION 1.(c)** G.S. 25-9-408(f) reads as rewritten:

27 "(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or
28 transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a
29 right the transfer of which is prohibited or restricted by any of the following statutes to the
30 extent that the statute is inconsistent with subsection (c) of this section: North Carolina
31 Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina
32 Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina
33 Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina
34 ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of
35 the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North
36 Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes);
37 and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

38 **SECTION 1.(d)** G.S. 147-69.2 reads as rewritten:

39 "**§ 147-69.2. Investments authorized for special funds held by State Treasurer.**

40 (a) This section applies to funds held by the State Treasurer to the credit of each of the
41 following:

42 ...

43 (6) The ~~Firemen's-Firefighters'~~ and Rescue Workers' Pension Fund.

44 ...

45 (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
46 in subsection (a) of this section in excess of the amount required to meet the current needs and
47 demands on such funds. The State Treasurer may invest the funds as provided in this
48 subsection. If an investment was authorized by this subsection at the time the investment was
49 made or contractually committed to be made, then none of the percentage or other limitation on
50 investments set forth in this subsection shall be construed to require the State Treasurer to

1 subsequently dispose of the investment or fail to honor any contractual commitments as a result
2 of changes in market values, ratings, or other investment qualifications.

3 ...
4 (8) With respect to assets of the Teachers' and State Employees' Retirement
5 System, the Consolidated Judicial Retirement System, the ~~Firemen's~~
6 Firefighters' and Rescue Workers' Pension Fund, the Local Governmental
7 Employees' Retirement System, the Legislative Retirement System, the
8 North Carolina National Guard Pension Fund, and the Retiree Health Benefit
9 Fund (hereinafter referred to collectively as the Retirement Systems), and
10 assets invested pursuant to subdivision (b2) of this section, they may be
11 invested in equity securities traded on a public securities exchange or market
12 organized and regulated pursuant to the laws of the jurisdiction of such
13 exchange or market and issued by any company incorporated or otherwise
14 created or located within or outside the United States; provided the
15 investments meet the conditions of this subdivision. The investments
16 authorized for the Retirement Systems under this subdivision cannot exceed
17 sixty-five percent (65%) of the market value of all invested assets of the
18 Retirement Systems.

19 The assets authorized under this subdivision may be invested directly by
20 the State Treasurer in any equity securities authorized by this subdivision for
21 the primary purpose of approximating the movements of a nationally
22 recognized and published market benchmark index. No more than one and
23 one-half percent (1.5%) of the market value of the Retirement Systems'
24 assets that may be invested directly under this subdivision can be invested in
25 the stock of a single corporation, and the total number of shares in that single
26 corporation cannot exceed eight percent (8%) of the issued and outstanding
27 stock of that corporation.

28 So long as each investment manager has assets under management of at
29 least one hundred million dollars (\$100,000,000), the assets authorized under
30 this subdivision may also be invested through any of the following:

- 31 a. Investment companies registered under the Investment Company Act
32 of 1940; individual, common, or collective trust funds of banks and
33 trust companies; and group trusts that invest primarily in investments
34 authorized by this subdivision.
35 b. Limited partnerships, limited liability companies, or other limited
36 liability investment vehicles that are not publicly traded and invest
37 primarily in investments authorized by this subdivision. Investments
38 under this sub-subdivision shall not exceed six and one-half percent
39 (6.5%) of the market value of all invested assets of the Retirement
40 Systems.
41 c. Contractual arrangements in which investment managers have full
42 and complete discretion and authority to invest assets specified in
43 such contractual arrangements in investments authorized by this
44 subdivision."

45 **SECTION 1.(e)** G.S. 147-69.7(a) reads as rewritten:

46 "(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and
47 State Employees' Retirement System, the Consolidated Judicial Retirement System, the
48 ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund, the Local Governmental
49 Employees' Retirement System, the Legislative Retirement System, and the North Carolina
50 National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems)
51 as follows:

- 1 (1) Solely in the interest of the participants and beneficiaries.
- 2 (2) For the exclusive purpose of providing benefits to participants and
- 3 beneficiaries and paying reasonable expenses of administering the
- 4 Retirement Systems.
- 5 (3) With the care, skill, and caution under the circumstances then prevailing
- 6 which a prudent person acting in a like capacity and familiar with those
- 7 matters would use in the conduct of an activity of like character and purpose.
- 8 (4) Impartially, taking into account any differing interests of participants and
- 9 beneficiaries.
- 10 (5) Incurring only costs that are appropriate and reasonable.
- 11 (6) In accordance with a good-faith interpretation of the law governing the
- 12 Retirement Systems."

13 **SECTION 1.(f)** G.S. 147-69.8 reads as rewritten:

14 **"§ 147-69.8. Annual report on new investment authority.**

15 Whenever the General Assembly broadens the investment authority of the State Treasurer
16 as to the General Fund, the Teachers' and State Employees' Retirement System, the
17 Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad
18 Workers' Pension Fund, the Local Governmental Employees' Retirement System, the
19 Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle
20 funds, the State Treasurer shall annually report in detail to the General Assembly the
21 investments made under such new authority, including the returns on those investments,
22 earnings, changes to value, and gains and losses in disposition of such investments. The report
23 shall be made during the first six months of each calendar year, covering performance in the
24 prior calendar year. As to each type of new investment authority, the report shall be made for at
25 least four years."

26 **SECTION 2.(a)** Article 86 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring**
29 **disrepute on a fire department or rescue squad.**

30 (a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any
31 retirement benefits or allowances, except for a return of member contributions, to any member
32 who is convicted of any felony under federal law or the laws of this State if all of the following
33 apply:

- 34 (1) The offense is committed while the member is not yet 55 years of age or has
35 not yet received 20 years of fully credited service, or while the member is 55
36 years of age or older and has 20 years of fully credited service but is still
37 serving as a participant in an eligible fire department or eligible rescue
38 squad.
- 39 (2) The conduct resulting in the member's conviction is directly related to
40 service as a firefighter or rescue squad worker and brings disrepute on a fire
41 department or rescue squad.

42 (b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions
43 where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal
44 procedure that the offense is directly related to service as a firefighter or rescue squad worker.

45 (c) If a member or former member whose benefits under the System were forfeited
46 under this section, except for the return of member contributions, subsequently receives an
47 unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then
48 the member or former member may seek a reversal of the benefit forfeiture by presenting
49 sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the
50 benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all
51 accumulated contributions. Repayment of all accumulated contributions that have been

1 received by the individual under the forfeiture provisions of this section must be made in a total
2 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
3 reinstatement of the service credit forfeited."

4 **SECTION 2.(b)** G.S. 15A-1340.16(d) is amended by adding a new subdivision to
5 read:

6 "(9a) The defendant is a firefighter or rescue squad worker, and the offense is
7 directly related to service as a firefighter or rescue squad worker."

8 **SECTION 2.(c)** G.S. 58-86-95, as enacted by Section 1 of this act, reads as
9 rewritten:

10 **"§ 58-86-95. Leaves of absence; inactive ~~membership~~; membership; felony forfeiture.**

11 ...

12 (h) If a member who is in service and has not received 20 years of fully credited service
13 in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for
14 acts committed after December 1, 2013, then that member shall forfeit all benefits under this
15 System, except for a return of member contributions. If a member who is in service and has not
16 received 20 years of fully credited service in this System on December 1, 2013, is convicted of
17 an offense listed in G.S. 126-38.5 for acts committed after December 1, 2013, then that member
18 is not entitled to any fully credited service that accrued after December 1, 2013."

19 **SECTION 3.** S.L. 2012-193, Section 17, reads as rewritten:

20 **"SECTION 17.** The State Treasurer shall negotiate a memorandum of agreement with the
21 United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina
22 whereby the prosecutors will notify the State Treasurer of convictions under
23 G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and 135-5.1(h),~~
24 135-5.4(h), and 58-86-100(b).~~135-5.4(h)."~~

25 **SECTION 4.** Section 2 of this section becomes effective December 1, 2013, and
26 applies to offenses committed on or after that date. The remainder of this act becomes effective
27 July 1, 2013.