

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 327
Committee Substitute Favorable 4/18/13
Committee Substitute #2 Favorable 4/30/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H327-PCS80394-SH-25

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 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~~ firefighting 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~~ firefighting 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



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1 known, and designated as "The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad
2 Workers' Pension Fund" to be administered as provided in this Article.

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

8 **"§ 58-86-2. Definitions.**

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

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

1 (10) "Member" means an eligible firefighter or eligible rescue squad worker who
2 has elected to participate in the North Carolina Firefighters' and Rescue
3 Squad Workers' Pension Fund.

4 (11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad
5 Workers' Pension Fund.

6 (12) "Training sessions" for eligible rescue squad workers means sessions in
7 which attendance will result in the preparation of, or knowledge gained by,
8 the member in the area of rescue, emergency medical services, injury
9 prevention, or protection of life and property. Such drill or training sessions
10 held by the eligible rescue squad unit to meet the requirements of this Article
11 shall be held for the purpose of providing a learning or preparation
12 experience for the members.

13 (13) "Training sessions" for eligible firefighters means sessions in which
14 attendance will result in the preparation of, or knowledge gained by, the
15 member in the area of fire prevention, fire suppression, or protection of life
16 and property. Such drill or training sessions held by the eligible fire
17 department to meet the requirements of this Article shall be held for the
18 purpose of providing a learning or preparation experience for the members.

19 **§ 58-86-5. Creation and membership of board of trustees; compensation.**

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

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

23 ~~(1) The State Treasurer, who shall act as chairman.~~

24 ~~(2) The State Insurance Commissioner.~~

25 ~~(3) Repealed by Session Laws 1993, c. 9.~~

26 ~~(4) Four members to be appointed by the Governor; one a paid fireman, one a~~
27 ~~volunteer fireman, one volunteer rescue squad worker, and one representing~~
28 ~~the public at large, for terms of four years each. These members may~~
29 ~~succeed themselves.~~

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

34 **§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.**

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

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

38 ~~(1) The Director of the Retirement Systems Division of the North Carolina~~
39 ~~Department of State Treasurer or his or her designee, who shall act as chair.~~

40 ~~(2) A designee of the State Insurance Commissioner.~~

41 ~~(3) Five members to be appointed by the Board of Trustees of the Local~~
42 ~~Governmental Employees' Retirement System: one paid firefighter, one~~
43 ~~volunteer firefighter, one paid rescue squad worker, one volunteer rescue~~
44 ~~squad worker, and one representing the public at large, for terms of four~~
45 ~~years each. One member of the advisory panel appointed by the Board of~~
46 ~~Trustees of the Local Governmental Employees' Retirement System must be~~
47 ~~a member of that Board. Members of the advisory panel may succeed~~
48 ~~themselves if reappointed by the Board of Trustees of the Local~~
49 ~~Governmental Employees' Retirement System.~~

50 ~~The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad~~
51 ~~Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the~~

1 expiration of their current terms. No member of the advisory panel shall receive any salary,
2 compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at
3 duly and regularly called and held meetings of the advisory panel.

4 **"§ 58-86-10. Powers and duties of the board.**

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

13 **"§ 58-86-11. Powers and duties of the advisory panel.**

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

19 ~~**"§ 58-86-15. Director.**~~

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

25 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
26 **fund; expenditures.**

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

39 ~~**"§ 58-86-25. "Eligible firemen" defined; determination-Determination and certification**~~
40 ~~**of volunteers meeting qualifications. eligible firefighters.**~~

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

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

21 **"§ 58-86-30. "Eligible rescue squad worker" defined; determination-Determination and**
22 **certification of eligibility. "eligible rescue squad worker."**

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

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

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

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

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

1 **"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly**
2 **payments by members; payments credited to separate accounts of members;**
3 **termination of membership.**

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

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

17 **"§ 58-86-45. Additional retroactive membership.**

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

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

49 (b) An eligible ~~fireman~~ firefighter or rescue squad worker who is not yet 35 years old
50 may apply to the board of trustees for membership in the fund at any time. Upon becoming a
51 member, the worker may make a lump sum payment of ten dollars (\$10.00) per month

1 retroactively to the time the worker first became eligible to become a member, plus interest at
2 an annual rate to be set by the board upon advice from actuary for each year of retroactive
3 payments. Upon making this lump sum payment, the worker shall be given credit for all prior
4 service in the same manner as if the worker had applied for membership upon first becoming
5 eligible.

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

11 **"§ 58-86-55. Monthly pensions upon retirement.**

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

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

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

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

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

1 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
2 member.

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

6 **"§ 58-86-60. Payments in lump sums.**

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

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

49 **"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

50 If, for any reason, the fund created and made available for any purpose covered by this
51 Article shall be insufficient to pay in full any pension benefits, or other charges, then all

1 benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists.
2 No claim shall accrue with respect to any amount by which a pension or benefit payment shall
3 have been reduced.

4 **"§ 58-86-70. Provisions subject to future legislative change.**

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

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

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

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

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

23 **"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

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

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

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

38 **"§ 58-86-95. Leaves of absence; inactive membership.**

39 (a) Any member who resigns as an eligible firefighter or an eligible rescue squad
40 worker, whichever is applicable, may withdraw from the fund and seek a refund under
41 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
42 considered an inactive member.

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

47 (c) A member is not eligible for service credit for the time he or she is on leave of
48 absence and is not required to make monthly payments for that time. During the time a member
49 is on leave of absence he or she is not eligible for benefits from the pension fund. A member
50 who has taken a leave of absence may subsequently withdraw from the pension fund and seek a

1 refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the
2 appropriate person or persons may seek a refund under G.S. 58-86-60.

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

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

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

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

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

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

24 ...

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

27"

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

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

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

41 "**§ 147-69.2. Investments authorized for special funds held by State Treasurer.**

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

44 ...

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

46 ...

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

1 investments set forth in this subsection shall be construed to require the State Treasurer to
2 subsequently dispose of the investment or fail to honor any contractual commitments as a result
3 of changes in market values, ratings, or other investment qualifications.

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

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

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

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

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

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

1 National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems)
2 as follows:

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

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

16 **"§ 147-69.8. Annual report on new investment authority.**

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

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

30 **"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring**
31 **disrepute on a fire department or rescue squad.**

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

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

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

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

1 benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all
2 accumulated contributions. Repayment of all accumulated contributions that have been
3 received by the individual under the forfeiture provisions of this section must be made in a total
4 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
5 reinstatement of the service credit forfeited."

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

8 "(9a) The defendant is a firefighter or rescue squad worker, and the offense is
9 directly related to service as a firefighter or rescue squad worker."

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

12 "**§ 58-86-95. Leaves of absence; inactive ~~membership~~; membership; felony forfeiture.**

13 ...

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

21 **SECTION 3.** Section 17 of S.L. 2012-193 reads as rewritten:

22 "**SECTION 17.** The State Treasurer shall negotiate a memorandum of agreement with the
23 United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina
24 whereby the prosecutors will notify the State Treasurer of convictions under
25 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),~~
26 135-5.4(h), and 58-86-100(b).~~135-5.4(h).~~"

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