

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**SENATE BILL 99
PROPOSED COMMITTEE SUBSTITUTE S99-PCS25246-SH-1**

Short Title: Fire, Rescue, & Safety Worker System Changes.

(Public)

Sponsors:

Referred to:

February 23, 2015

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A DEFINITION OF FIREFIGHTER FOR PURPOSES OF THE
2 LOCAL FIREFIGHTERS' RELIEF FUND, THE STATEWIDE FIREFIGHTERS' RELIEF
3 FUND, THE STATE FIRE PROTECTION GRANT FUND, VOLUNTEER SAFETY
4 WORKERS ASSISTANCE, AND THE RESCUE SQUAD WORKERS' RELIEF FUND;
5 TO AMEND THE PROCESS FOR FILING CERTIFIED ROSTERS WITH THE NORTH
6 CAROLINA STATE FIREMEN'S ASSOCIATION AND THE NORTH CAROLINA
7 ASSOCIATION OF RESCUE AND EMERGENCY MEDICAL SERVICES, INC.; TO
8 AMEND THE RESCUE SQUAD WORKERS' RELIEF FUND; TO AMEND THE
9 LAW-ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS' AND
10 CIVIL AIR PATROL MEMBERS' DEATH BENEFITS ACT; AND TO SPECIFY
11 LOCAL GOVERNMENT AUTHORITY AS IT PERTAINS TO A FIRE DEPARTMENT
12 BOARD AND PARTICIPATION IN THE LOCAL GOVERNMENTAL EMPLOYEES'
13 RETIREMENT SYSTEM.
14

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 58-84-5 reads as rewritten:

17 "**§ 58-84-5. Definitions.**

18 The following definitions apply in Articles ~~84 through 88~~ 84, 85, 85A, 87, and 88 of this
19 Chapter:

- 20 (1) City. – A fire district.
21 (2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so
22 designated by the governing body of the fire district.
23 (3) Fire district. – Any political subdivision of the State or federally recognized
24 Native American tribe within the State that meets all of the following
25 conditions:
26 a. It has an organized fire department under the control of its governing
27 body.
28 b. Its fire department has apparatus and equipment that is in serviceable
29 condition for fire duty and is valued at one thousand dollars (\$1,000)
30 or more.
31 c. It is rated and certified by the Commissioner.
32 d. Its response area has been approved by the local municipal
33 government or, if there is no local municipal government, by the
34 local board of county commissioners.

35 (3a) Firefighter or Fireman. – Any person who meets all of the following
36 requirements:



* S 9 9 - P C S 2 5 2 4 6 - S H - 1 *

- 1 a. Is a volunteer, employee, contractor, or member of a rated and
 2 certified fire department.
 3 b. Performs work or training connected with fire protection, fire
 4 prevention, fire control, fire education, fire inspection, fire
 5 investigation, rescue, Emergency Medical Services, special
 6 operations, or performs the statutory duties and responsibilities of the
 7 fire chief as set forth in G.S. 160A-292.
 8 c. Performs work or training at the direction of the fire chief.
 9 d. Is included on the certified roster submitted to the North Carolina
 10 State Firemen's Association pursuant to G.S. 58-86-25.

11 (4) Town. – A fire district."

12 **SECTION 2.** G.S. 58-86-10 reads as rewritten:

13 **"§ 58-86-10. Powers and duties of the board.**

14 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
 15 System shall administer the Pension Fund. The board shall request appropriations out of the
 16 general fund for administrative expenses and to provide for the financing of this pension fund,
 17 employ necessary clerical assistance, determine all applications for pensions, provide for the
 18 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
 19 governance of this fund, prescribe rules and regulations of eligibility of persons to receive
 20 pensions, expend funds in accordance with the provisions of this Article, and generally exercise
 21 all other powers necessary for the administration of the fund created by this Article. Should any
 22 change or error due to the submission of fraudulent information result in any member or
 23 beneficiary receiving from the Retirement System more or less than he or she would have been
 24 entitled to receive had their records been correct, the Board of Trustees shall correct such error,
 25 and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent
 26 of the benefit to which such member or beneficiary was correctly entitled shall be paid."

27 **SECTION 3.** G.S. 58-86-25 reads as rewritten:

28 **"§ 58-86-25. Determination and certification of eligible firefighters.**

29 ~~Eligible~~ For purposes of this Article, eligible firefighters must attend 36 hours of training
 30 sessions in each calendar year. Each eligible fire department shall annually determine and
 31 report a certified roster of the names of those firefighters meeting the eligibility qualifications
 32 of this Article to its respective governing body, which upon determination of the validity and
 33 accuracy of the ~~qualification~~ qualification, the department shall promptly certify-submit the list
 34 to the North Carolina State Firemen's Association. Submission of such information by a
 35 department to the North Carolina State Firemen's Association constitutes a certification of its
 36 accuracy under accounting standards set forth by the Governmental Accounting Standards
 37 Board of the Financial Accounting Foundation. The Firemen's Association shall provide a list
 38 of those persons meeting the eligibility requirements of this Article to the State Treasurer by
 39 January 31 of each year. For the purposes of the preceding ~~sentence, sentences,~~ the governing
 40 body of a fire department operated: by a county is the county board of commissioners; by a city
 41 is the city council; by a sanitary district is the sanitary district board; by a corporation, whether
 42 profit or nonprofit, is the corporation's board of directors; and by any other entity is that group
 43 designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue
 44 squad worker" in order to receive double benefits available under this Article."

45 **SECTION 4.** G.S. 58-86-30 reads as rewritten:

46 **"§ 58-86-30. Determination and certification of "eligible rescue squad worker."**

47 Eligible rescue squad workers must attend at least 36 hours of training sessions in each
 48 calendar year. Each rescue or emergency medical services squad eligible for membership in the
 49 North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster
 50 certified by the secretary of the association of those rescue or emergency medical services
 51 squad workers meeting the requirements of this section with the State Treasurer by January 31

1 of each calendar year. Submission of such information by a department to the North Carolina
2 Association of Rescue and Emergency Medical Services, Inc., constitutes a certification of its
3 accuracy under accounting standards set forth by the Governmental Accounting Standards
4 Board of the Financial Accounting Foundation.

5 An "eligible rescue squad worker" may not qualify also as an "eligible firefighter" in order
6 to receive double benefits available under this Article."

7 **SECTION 5.** G.S. 58-88-5 reads as rewritten:

8 "**§ 58-88-5. Rescue Squad Workers' Relief Fund; trustees; disbursement of funds.**

9 (a) The "Rescue Squad Workers' Relief Fund" is created. It consists of the revenue
10 credited to the Fund under G.S. 20-183.7(c) and shall be used for the purposes set forth in this
11 Article.

12 (b) The Executive Committee of the Association shall be the Board of Trustees of the
13 Fund. The Board shall consist of the Commander, Vice-Commander, Secretary-Treasurer, and
14 two past Commanders of the Association. The Commander shall be the Chairman of the Board.
15 The Commander, Vice-Commander, and Secretary-Treasurer shall appoint the two past
16 Commanders of the Association, who shall serve at the pleasure of the appointing officers.

17 (c) The Commissioner of Insurance has exclusive control of the Fund and shall disburse
18 revenue in the Fund to the Association only for the following purposes:

19 (1) To safeguard any rescue or EMS worker in active service from financial
20 loss, occasioned by sickness contracted or injury received while in the
21 performance of his or her duties as a rescue or EMS worker.

22 (2) To provide a reasonable support for those persons actually dependent upon
23 the services of any rescue or EMS worker who may lose his or her life in the
24 service of his or her town, county, city, or the State, either by accident or
25 from disease contracted or injury received by reason of such service. The
26 amount is to be determined according to the earning capacity of the
27 deceased.

28 (3) To award scholarships to children of members, deceased members or retired
29 members in good standing, for the purpose of attending a two year or four
30 year college or university, and for the purpose of attending a two year course
31 of study at a community college or an accredited trade or technical school,
32 any of which is located in the State of North Carolina. Continuation of the
33 payment of educational benefits for children of active members shall be
34 conditioned on the continuance of active membership in the rescue or EMS
35 service by the ~~parent or parents~~ parent, parents, legal guardian, or legal
36 guardians.

37 (4) To pay death benefits to those persons who were actually dependent upon
38 any member killed in the line of duty.

39 (4a) To pay additional benefits approved by the Board of Trustees of the Fund to
40 rescue and EMS workers who are eligible pursuant to G.S. 58-88-10 and
41 who are members of the Association.

42 (5) Notwithstanding any other provision of law, no expenditures shall be made
43 pursuant to subdivisions (1), (2), (3), (4), and (4a) of this subsection unless
44 the Board has certified that the expenditures will not render the Fund
45 financially unsound for the purpose of providing the benefits set forth in
46 subdivisions (1), (2), (3), (4), and (4a). If, for any reason, funds made
47 available for subdivisions (1), (2), (3), (4), and (4a) are insufficient to pay in
48 full any benefit, the benefits pursuant to subdivisions (1), (2), (3), (4), and
49 (4a) shall be reduced pro rata for as long as the amount of insufficient funds
50 exists. No claims shall accrue with respect to any amount by which a benefit
51 under subdivisions (1), (2), (3), (4), and (4a) has been reduced."

1 **SECTION 6.** G.S. 58-88-10 reads as rewritten:

2 "**§ 58-88-10. Membership eligibility.**

3 (a) Any member of a rescue squad or EMS service who is eligible for membership in
4 the Association and who has attended a minimum of 36 hours of training ~~and meetings~~ in the
5 last calendar year; and each rescue squad or EMS service whose members are eligible for
6 membership in the Association who has filed a roster certifying to the Secretary-Treasurer who
7 certifies to the Commissioner of Insurance by January 1 of each calendar year that all eligible
8 members have met the requirements, shall be eligible for the Fund. Any eligible member who,
9 in the actual discharge of his or her duties as rescue or EMS personnel, is (1) made sick by
10 disease contracted or (2) becomes disabled, shall be entitled to the benefits from the Fund.

11 (b) Any organized rescue squad or EMS service in North Carolina holding itself ready
12 for duty may, upon compliance with the requirements of the constitution and by-laws of the
13 Association, be eligible for membership in the Fund.

14 (c) The line of duty entitling one to participate in the Fund shall be so construed as to
15 mean actual rescue or EMS duty only."

16 **SECTION 7.** G.S. 58-88-25 reads as rewritten:

17 "**§ 58-88-25. Application for benefits.**

18 Applications for benefits from the Fund shall be made to the Secretary-Treasurer under the
19 following conditions and procedure: Within ~~30~~180 days after the contracting of a disease or
20 the occurrence of accident for which benefits are sought, the chief or chief officer of the local
21 department shall notify the Secretary-Treasurer in writing that the person applying for benefits
22 is a member of the Fund and request the necessary forms from the Secretary-Treasurer's office
23 to be submitted for the benefits."

24 **SECTION 8.** G.S. 143-166.2 reads as rewritten:

25 "**§ 143-166.2. Definitions.**

26 (a) The term "dependent child" shall mean any unmarried child of the deceased officer,
27 ~~fireman, firefighter,~~ rescue squad worker or senior member of the Civil Air Patrol whether
28 natural, adopted, posthumously born or whether a child born out of wedlock as entitled to
29 inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon
30 and receiving his chief support from said officer or ~~fireman firefighter~~ or rescue squad worker
31 or senior member of the Civil Air Patrol at the time of his death; provided, however, that if a
32 dependent child is entitled to receive benefits at the time of the officer's or ~~fireman's~~
33 firefighter's or rescue squad worker's or senior Civil Air Patrol member's death as hereinafter
34 provided, he shall continue to be eligible to receive such benefits regardless of his age
35 thereafter; and further provided that any child over 18 years of age who is physically or
36 mentally incapable of earning a living and any child over 18 years of age who was enrolled as a
37 full-time student at the time of the officer's, the ~~fireman's, firefighter's,~~ the rescue squad
38 worker's or the senior Civil Air Patrol member's death shall so long as he remains a full-time
39 student as defined in the Social Security Act be regarded as a dependent child and eligible to
40 receive benefits under the provisions of this Article.

41 (b) The term "dependent parent" shall mean the parent of the deceased officer, ~~fireman,~~
42 firefighter, rescue squad worker or senior member of the Civil Air Patrol, whether natural or
43 adoptive, who was dependent upon and receiving his total and entire support from the officer,
44 ~~fireman, firefighter,~~ rescue squad worker or senior member of the Civil Air Patrol at the time of
45 the injury which resulted in his death.

46 (c) The term "killed in the line of duty" shall apply to any law-enforcement officer,
47 ~~fireman, firefighter,~~ rescue squad worker who is killed or dies as a result of bodily injuries
48 sustained or of extreme exercise or extreme activity experienced in the course and scope of his
49 official duties while in the discharge of his official duty or duties. When applied to a senior
50 member of the Civil Air Patrol as defined in this Article, "killed in the line of duty" shall mean
51 any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a

1 result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the
2 course and scope of his official duties while engaged in a State requested and approved mission
3 pursuant to Article 13 of Chapter 143B of the General Statutes. For purposes of this Article,
4 when a law enforcement officer, ~~fireman~~, firefighter, rescue squad worker, or senior Civil Air
5 Patrol member dies as the direct and proximate result of a myocardial infarction suffered while
6 on duty or within 24 hours after participating in a training exercise or responding to an
7 emergency situation, the law enforcement officer, ~~fireman~~, firefighter, rescue squad worker, or
8 senior Civil Air Patrol member is presumed to have been killed in the line of duty.

9 (d) The term "law-enforcement officer", "officer", or "~~fireman~~" "firefighter" shall mean
10 a sheriff and all law-enforcement officers employed full-time, permanent part-time, or
11 temporarily by a sheriff, the State of North Carolina or any county or municipality thereof,
12 whether paid or unpaid; and all full-time custodial employees and probation and parole officers
13 of the Division of Adult Correction of the Department of Public Safety; and all full time
14 institutional and full-time, permanent part-time, and temporary detention employees of the
15 Division of Juvenile Justice of the Department of Public Safety and full-time, permanent
16 part-time, and temporary detention officers employed by any sheriff, county or municipality,
17 whether paid or unpaid. The term "firemen" shall mean both firefighter or firemen as defined in
18 G.S. 58-84-5(3a), or "eligible firemen" as defined in Article 86 of Chapter 58 of the General
19 Statutes, notwithstanding any age requirements set out in that Article, and all full-time,
20 permanent part-time and temporary employees of the North Carolina Forest Service of the
21 Department of Agriculture and Consumer Services during the time they are actively engaged in
22 firefighting activities; or engaged in emergency response activities pursuant to
23 G.S. 166A-19.77; and shall mean all full-time employees of the North Carolina Department of
24 Insurance during the time they are actively engaged in firefighting activities, during the time
25 they are training firefighters or rescue squad workers, and during the time they are engaged in
26 activities as members of the State Emergency Response Team, when the Team has been
27 activated; and shall mean all otherwise eligible persons who, while actively engaged as
28 firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor
29 outside their own department or squad. The term "rescue squad worker" shall mean a person
30 who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in
31 difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care
32 or emergency medical services. In addition, this person must belong to an organized rescue
33 squad which is eligible for membership in the North Carolina Association of Rescue and
34 Emergency Medical Services, Inc., and the person must have attended a minimum of 36 hours
35 of training in the last calendar year. Each rescue squad belonging to the North Carolina
36 Association of Rescue and Emergency Medical Services, Inc., must file a roster of those
37 members meeting the above requirements with the State Treasurer on or about January 31 of
38 each year, and this roster must be certified to by the secretary of said association. In addition,
39 the term "rescue squad worker" shall mean a member of an ambulance service certified by the
40 Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the
41 General Statutes. The Department of Health and Human Services shall furnish a list of
42 ambulance service members to the State Treasurer on or about January 31 of each year. The
43 term "Civil Air Patrol members" shall mean those senior members of the North Carolina
44 Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to
45 G.S. 143B-1031. The term "~~fireman~~" "firefighter" shall also mean county fire marshals when
46 engaged in the performance of their county duties. The term "rescue squad worker" shall also
47 mean county emergency services coordinators when engaged in the performance of their
48 county duties.

49 (e) The term "spouse" shall mean the wife or husband of the deceased officer, ~~fireman~~,
50 firefighter, rescue squad worker or senior Civil Air Patrol member who survives him and who
51 was residing with such officer, ~~fireman~~, firefighter, rescue squad worker, or senior Civil Air

1 Patrol member at the time of and during the six months next preceding the date of injury to
2 such officer, ~~fireman, firefighter,~~ rescue squad worker or senior Civil Air Patrol member which
3 resulted in his or her death and who also resided with such officer, ~~fireman, firefighter,~~ rescue
4 squad worker or senior Civil Air Patrol member from that date of injury up to and at the time of
5 his or her death and ~~who remains unmarried during the time benefits are forthcoming;~~
6 provided, however, the part of this section requiring the spouse to have been residing with the
7 deceased officer, ~~fireman, firefighter,~~ rescue squad worker or senior Civil Air Patrol member
8 for six months next preceding the date of the injury which resulted in his death shall not apply
9 where marriage occurred during this six-month period or where the officer, ~~fireman, firefighter,~~
10 rescue squad worker or senior Civil Air Patrol member was absent during this six-month period
11 due to service in the Armed Forces of the United States.

12 (f) The term "official duties" means those duties performed while en route to, engaged
13 in, or returning from training, or in the course of responding to, engaged in or returning from a
14 call by the department of which he is a member, or from a call for assistance from any
15 department or such organization within the State of North Carolina or within a service area
16 contiguous to the borders of the State of North Carolina, when served or aided by a department
17 from within the State of North Carolina. While within the State of North Carolina, any eligible
18 person, as defined in this section or in G.S. 58-86-25, who renders service or assistance, of his
19 own volition, at the scene of an emergency, is performing his official duties when:

- 20 (1) Reasonably apparent circumstances require prompt decisions and actions to
21 protect persons and property; and
- 22 (2) The necessity of immediate action is so reasonably apparent that any delay
23 in acting would seriously worsen the property damage or endanger any
24 person's life."

25 **SECTION 9.** G.S. 143-166.3(b) reads as rewritten:

26 "(b) Payment shall be made to the person or persons qualifying therefor under subsection
27 (a) in the following amounts:

- 28 (1) At the time of the death of an officer, ~~fireman, firefighter,~~ rescue squad
29 worker or senior Civil Air Patrol member, ~~twenty thousand dollars (\$20,000)~~
30 fifty thousand dollars (\$50,000) shall be paid to the person or persons
31 entitled thereto.
- 32 (2) ~~Thereafter, ten thousand dollars (\$10,000) shall be paid annually to the~~
33 ~~person or persons entitled thereto until the sum of the initial payment and~~
34 ~~each annual payment reaches fifty thousand dollars (\$50,000).~~
- 35 (3) In the event there is no person qualifying under subsection (a) of this section,
36 fifty thousand dollars (\$50,000) shall be paid to the estate of the deceased
37 officer, ~~fireman, firefighter,~~ rescue squad worker or senior Civil Air Patrol
38 member at the time of death.

39 ~~(e) In the event that any person or persons eligible for payments under subsection (a) of~~
40 ~~this section shall become ineligible, and other eligible person or persons qualify for said death~~
41 ~~benefit payments under subsection (a), then they shall receive the remainder of any payments~~
42 ~~up to the limit of fifty thousand dollars (\$50,000) in the manner set forth in subsection (b) of~~
43 ~~this section.~~

44 ~~(d) In the event any person or persons eligible for payments under subsection (a) of this~~
45 ~~section shall become ineligible and no other person or persons qualify for payments under that~~
46 ~~subsection and where the sum of the initial payment of twenty thousand dollars (\$20,000) and~~
47 ~~each subsequent annual payment of ten thousand dollars (\$10,000) does not total fifty thousand~~
48 ~~dollars (\$50,000), then the difference between the total of the payments made and fifty~~
49 ~~thousand dollars (\$50,000) shall immediately be payable to the estate of the deceased officer,~~
50 ~~fireman, rescue squad worker, or senior Civil Air Patrol member."~~

1 **SECTION 10.(a)** In order to participate in the Local Governmental Employees'
2 Retirement System after October 1, 2015, the charter or articles of incorporation of fire
3 departments must include a provision that provides that the governing body of the local
4 government entity that holds the contract with the highest dollar value to the fire department for
5 provision of fire services shall have the authority to remove from office up to fifty percent
6 (50%) plus one member of the Board of Trustees or Board of Directors of the fire department.
7 Before exercising this authority, the local government entity shall notify the affected fire
8 department and give the fire department the opportunity to be heard in a public meeting. When
9 any fire department board member is removed, the resulting vacancy shall be filled pursuant to
10 the bylaws of the fire department.

11 **SECTION 10.(b)** This section only applies to fire departments that commenced
12 participation in the Local Governmental Employees' Retirement System between 1977 and
13 1992 pursuant to Chapter 316 of the Session Laws of 1977 and have contracts to provide fire
14 protection to a city, county, or instrumentality of the State.

15 **SECTION 11.** This act becomes effective July 1, 2015.