

2008

**SENATE
PENSIONS &
RETIREMENT
COMMITTEE**

MINUTES

North Carolina General Assembly
Through Senate Committee on
Pensions, Retirement & Aging

Date: 08/25/2008
Time: 15:43
Page: 001 of 003
Leg. Day: H-155/S-153

2007-2008 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
H0328=	Crawford	FLEXIBLE PAYMENT/LAW ENFORCEMENT SEPARATION.	SR Ch. SL 2007-69	04-16-07	05-23-07
H0546=	Ross	GEN. STAT. COMM. TECHNICAL CORRECTIONS - ARTS.	S Re-ref Com On Pensions, Retirement & Aging	07-27-07	
H0654	E. Warren	CLARIFY DEFINITION OF RETIREMENT.	SR Ch. SL 2007-143	05-23-07	06-28-07
H0676	Weiss	INCREASE REGISTER OF DEEDS' PENSION.	*SR Ch. SL 2007-245	05-24-07	06-28-07
H0777	Bell	RETIREMENT TECHNICAL CHANGES.-AB	*SR Ch. SL 2007-431	07-23-07	07-31-07
H0779	Bell	INCREASE CONTRIBUTORY DEATH BENEFIT.-AB	*SR Ch. SL 2007-496	07-23-07	07-31-07
H0833	Hall	RENAME FIREMEN'S RELIEF FUND.	*SR Ch. SL 2007-246	05-29-07	06-28-07
H0956	Yongue	RETIRED TEACHERS WORK.	*SR Ch. SL 2007-326	06-27-07	06-28-07
H1025	Coleman	LOCAL GOVERN. RETIREMENT/PURCHASE OF SERVICE.	SR Ch. SL 2007-304	05-29-07	06-28-07
H1414	Martin	CREDITABLE SERVICE/ UNIFORMED SERV. EMPLOYEES.	*SR Ch. SL 2007-233	05-29-07	06-28-07
H1415	Martin	DISABILITY BENEFITS.	*SR Ch. SL 2007-325	06-27-07	06-28-07
H1471	Faison	CHARTER SCHOOL EMPLOYMENT BENEFITS ELECTION.	*SR Ch. SL 2007-464	07-11-07	07-19-07
\$ H1473	Michaux	2007 APPROPRIATIONS ACT.	*SR Ch. SL 2007-323	05-29-07	05-29-07
H1563	Holliman	EXTEND FIRE AND RESCUE DEATH BENEFITS.	*SR Ch. SL 2008-163	07-15-08	07-16-08
H1838	Bell	LEGISLATIVE RETIREMENT/RETURN TO SERVICE.	S Ref To Com On Pensions, Retirement & Aging	06-11-07	
\$ H2044	Luebke	2007 CONTINUING BUDGET AUTHORITY.	*SR Ch. SL 2007-145	06-28-07	06-28-07
\$ H2436=	Michaux	MODIFY APPROPRIATIONS ACT OF 2007.	*SR Ch. SL 2008-107	06-17-08	06-17-08
H2451	J. Harrell	ELKIN/BURLINGTON VOL. FIREMEN'S RETIREMENT.	*SR Ch. SL 2008-49	06-23-08	07-01-08
H2614	Crawford	STOVALL RETIREMENT.	SR Ch. SL 2008-52	06-23-08	07-01-08
H2728=	Bell	SUPPLEMENTAL RETIREMENT BD TRUSTEES/INV EMP.	*SR Ch. SL 2008-132	06-23-08	07-08-08
H2773=	Bell	RETIREMENT TECHNICAL CORRECTIONS.	*S Conf Com Appointed	06-23-08	07-01-08
S0073=	Walter H. Dalton	INCREASE FIRE AND RESCUE PENSIONS.	S Re-ref Com On Appropriations/ Base Budget	02-12-07	05-23-07
S0276	Walter H. Dalton	ENHANCE NATIONAL GUARD PENSION FUND.	S Re-ref Com On Appropriations/ Base Budget	02-22-07	05-23-07
S0347=	Richard Stevens	FLEXIBLE PAYMENT/LAW ENFORCEMENT SEPARATION.	S Ref To Com On Pensions, Retirement & Aging	02-27-07	
S0447	R. C. Soles, Jr.	REPEAL WHITEVILLE	*SR Ch. SL 2007-111	03-05-07	05-23-07

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Bill	Introducer	Short Title	Latest Action	In Date	Out Date
		FIRE PENSION.			
S0536	Charlie S. Danne	RETIRED TEACHERS WORK/ NO PENALTY.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	03-07-07	
S0784	Bob Atwater	DURHAM/LEOS PURCHASE OF RETIREMENT SERVICE.	S Ref To Com On Pensions, Retirement & Aging	03-15-07	
S1060=	Bob Atwater	PUBLIC DEFENDERS/ JUDICIAL RETIREMENT SYSTEM.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	03-21-07	
S1142=	David W. Hoyle	FIRE AND RESCUE WORKERS' RETIREMENT.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	03-22-07	
S1213	Tony Rand	AMEND REG. OF DEEDS SUPP. PENSION PLAN.	S Ref To Com On Pensions, Retirement & Aging	03-26-07	
S1226	Walter H. Dalton	RETIRED NURSES RETURN TO WORK.	*S Re-ref Com On Pensions and Retirement	07-24-07	07-25-07
S1238	Martin L. Nesbit	CAREER FIRE AND RESCUE RETIREMENT.	S Ref To Com On Pensions, Retirement & Aging	03-26-07	
S1409=	Fletcher L. Hart	SEPARATION ALLOWANCE/ FIREFIGHTERS & EMS.	S Ref To Com On Pensions, Retirement & Aging	03-26-07	
S1444=	John Snow	LAW OFFICERS' 25-YEAR RETIREMENT.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	03-26-07	
S1570	Tony Rand	RETIREMENT BOARD CONFIRMATION.	S Adopted	07-25-07	07-31-07
S1582	David W. Hoyle	INCREASE FIRE AND RESCUE PENSION.	S Ref To Com On Pensions, Retirement & Aging	05-14-08	
S1661	Tony Rand	REGISTERS OF DEEDS' PENSION.	*S Re-ref Com On Pensions and Retirement	05-20-08	07-08-08
S1846=	Walter H. Dalton	ENHANCE NATIONAL GUARD PENSION FUND.	S Ref To Com On Pensions, Retirement & Aging	05-22-08	
S1927	Janet Cowell	RETIREMENT BOARD CONFIRMATION.	S Adopted	05-22-08	07-01-08
S2007	Martin L. Nesbit	DEFERRED RETIREMENT OPTION/FIRE AND RESCUE.	S Ref To Com On Pensions, Retirement & Aging	05-28-08	

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2007-2008 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
S2129	Tony Rand	OIDS DIRECTOR/ JUDICIAL RETIREMENT SYSTEM.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	05-29-08	
\$ S2142=	Charlie S. Danne	INCREASE FIRE AND RESCUE PENSION.	S Ref to Pensions, Retirement & Aging. If fav, re-ref to Appropriations/ Base Budget	05-29-08	
S2160	Linda Garrou	AMEND WINSTON-SALEM FIREMEN'S RETIREMENT FUND.	SR Ch. SL 2008-98	05-29-08	07-01-08

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**SENATE COMMITTEE
ON
PENSIONS, RETIREMENT & AGING**

2007-2008 SESSION

MEMBERSHIP

**Senator Linda Garrou, Co-Chair
Senator Walter Dalton, Co-Chair
Senator Kay Hagan, Co-Chair**

**Senator Charlie Albertson
Senator Bob Atwater
Senator Stan Bingham
Senator Andrew Brock
Senator Daniel Clodfelter
Senator Janet Cowell
Senator Katie Dorsett
Senator Don East
Senator Tony Foriest
Senator James Forrester
Senator Kay Hagan
Senator Clark Jenkins
Senator Vernon Malone
Senator Martin Nesbitt, Jr.
Senator William Purcell
Senator Joe Sam Queen
Senator Richard Stevens
Senator A.B. Swindell**

STAFF:

**Karen Cochrane-Brown, Research Division
Theresa Matula, Research Division**

Principal Clerk _____
Reading Clerk _____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Pensions, Retirement & Aging** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 1, 2008	After Session	643

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 2451	Elkin/Burlington Vol. Firemen's Retirement.	Representative Harrell, III
HB 2614	Stovall Retirement.	Representative Crawford, Jr.
HB 2773	Retirement Technical Corrections.	Representative Harrell, III Representative Bell
SR 1927	Retirement Board Confirmation.	Senator Cowell
SB 2160	Amend Winston-Salem Firemen's Retirement Fund.	Senator Garrou
SB 1661	Registers of Deeds' Pension.	Senator Rand

Senator Walter H. Dalton, Co-Chair
Senator Linda Garrou, Co-Chair
Senator Kay R. Hagan, Co-Chair

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS, RETIREMENT & AGING COMMITTEE REPORT

Senator Walter H. Dalton, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Kay R. Hagan, Co-Chair

Tuesday, July 01, 2008

Senator DALTON,

submits the following with recommendations as to passage:

FAVORABLE

S.B.	2160	Amend Winston-Salem Firemen's Retirement Fund. Sequential Referral: None Recommended Referral: None
H.B.(CS #1)	2451	Elkin/Burlington Vol. Firemen's Retirement. Sequential Referral: None Recommended Referral: None
H.B.	2614	Stovall Retirement. Sequential Referral: None Recommended Referral: None
H.B.	2773	Retirement Technical Corrections. Sequential Referral: None Recommended Referral: None

ADOPTION

S.R.	1927	Retirement Board Confirmation. Sequential Referral: None Recommended Referral: None
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TOTAL REPORTED: 5

Committee Clerk Comments:

MINUTES

SENATE COMMITTEE
ON
PENSIONS, RETIREMENT & AGING

Tuesday, July 1, 2008
After Session.
Room 643, Legislative Office Building

Senator Walter B. Dalton Co-Chair Presiding

The Senate Committee on Pensions, Retirement and Aging met on Tuesday July 1, 2008 in Room 643 after session in the Legislative Office Building. Senator Walter Dalton Co-Chair presided. There were twelve members present.

Senator Dalton called the meeting to order, welcomed everyone, and introduced the Sergeant-At-Arms staff and acknowledged Pages.

Senate Bill 2160 - Short Titled: An Act To Require The Consolidate The Board of Trustees for the North Carolina (401K) Plan and the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan into the Supplemental Retirement Board of Trustees.

Action Taken: Senator Purcell moved for a favorable report. *The motion carried by unanimous voice vote.*

House Bill 2451 Committee Substitute Number 1: An Act To Amend The Supplemental Retirement Fund For Volunteer Firemen In The Town Of Elkin And To Repeal The Provisions Providing Supplemental Retirement Funds For Firemen In The City Of Burlington.

Analysis of House Bill 2451 Committee Substitute Number 1 amends the Elkin Firemen's Supplemental Retirement Fund to provide that the benefit is payable to volunteer firemen and to increase the monthly benefit from \$1.00 to \$2.00 for each full year of service; the bill also repeals the Burlington Firemen's Supplemental Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund.

Action Taken: Senator Purcell moved for a favorable report. *The motion carried by unanimous voice*

House Bill 2614 - Entitled: An Act To Authorize The Town Of Stovall To Participate In The Local Governmental Employees Retirement System Without Providing Prior Service Credits To Its Employees.

Action Taken: Senator Foriest moved for a favorable report. *The motion carried by unanimous voice vote.*

House Bill 2773 – Entitled: *An Act to Make Technical Corrections To The Statutes Governing The Teachers’ and State Employees Retirement System. The Judicial Retirement System, the Legislative Retirement System, the Local Governmental Employees’ Retirement System, and the Firemen’s and Rescue Squad Workers’ Pension Fund. (Please see attachment for details).*

This act becomes law effective January 1, 2008.

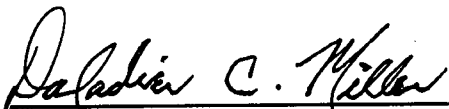
Action Taken: Senator Foriest moved for a favorable report. *The motion carried by unanimous voice vote.*

Senate Resolution 1927 - Entitled: *A Senate Resolution Providing For The Confirmation Of Appointments Made By The Governor To The Board Of Trustees Of The Teachers And State Employees Retirement System. Setting The Date For The Senate And The House Of Representatives To Elect Members To Fill Unexpired Terms On The State Board Of Community Colleges:*

Action Taken: Senator Purcell moved that the committee adopt Senate Resolution 1927. *The motion carried by unanimous voice vote.*

Having no further business, the meeting adjourned.

Senator Walter Dalton, Co-Chair



Daladier C. Miller, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 2160

Short Title: Amend Winston-Salem Firemen's Retirement Fund. (Local)

Sponsors: Senator Garrou.

Referred to: Pensions, Retirement & Aging.

May 29, 2008

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE PROVISIONS OF THE WINSTON-SALEM FIREMEN'S
2 RETIREMENT FUND.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Sections 1 through 32 of Chapter 388 of the 1973 Session
6 Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979
7 Session Laws, Chapter 647 of the 1981 Session Laws, Chapter 464 of the 1983 Session
8 Laws, Chapter 508 of the 1987 Session Laws, Chapter 793 of the 1989 Session Laws,
9 S.L. 1998-92, S.L. 2003-35, and S.L. 2006-121, read as rewritten:

10 "Sec. 1. That the name of the Association herein established shall be Winston-Salem
11 Firemen's Retirement Fund Association, hereinafter referred to as the Association.
12 References to the Association as of a date prior to April 3, 1979, and following July 1,
13 1973, shall mean the Winston-Salem Fire-Public Safety Retirement Fund Association,
14 which was the name of the Association during such period.

15 **Sec. 2.** Subject to the provisions of Section 16 hereof, the following persons shall
16 automatically be members of the Association:

17 (a) As of July 1, 1987, any person who was a member of the Association
18 following the close of business of the Association immediately preceding such date.

19 (b) As of July 1, 1987, and thereafter, any person not covered under (a) above
20 who shall have been regularly and continuously employed full time by the Fire
21 Department of the City of Winston-Salem (hereinafter referred to as the Fire
22 Department), including any Fire Department mechanic or electrician, who shall have
23 attained his 18th birthday and shall not have attained his 40th birthday. Any person not
24 covered under (a) above who was hired by the Fire Department prior to July 1, 1987,
25 and continues to be employed by the Fire Department on such date, and who had
26 attained his 30th birthday when hired but had not then attained his 40th birthday, may
27 elect within 90 days following July 1, 1987, to become a member by contributing to the
28 Association the sum of twelve dollars (\$12.00) per month from his date of hire by the
29 Fire Department, plus interest at the rate of eight percent (8%), applicable to any

1 payments made on and after July 1, 1989, per annum, computed on the amount accrued
2 as of the end of each fiscal year of the Association.

3 (c) Notwithstanding the provisions of subsection (b) immediately preceding, as a
4 condition to any person's becoming a member of the Association pursuant to the
5 provisions of subsection 2(b) or 16(a), the Trustees may require such person to undergo
6 a physical examination by a physician or physicians of good standing or repute selected
7 by the Trustees. If it shall be found from such physician's report that such person is not
8 in good physical or mental condition as of the date he would be eligible to become a
9 member of the Association, such person shall be denied membership in the Association.
10 The determinations of whether or not such person shall be required to undergo a
11 physical examination and whether or not he is in good physical or mental condition
12 shall be made by the Trustees. In making such determinations, all persons similarly
13 situated shall be treated alike. The cost of any medical examination required pursuant to
14 the provisions of this subsection (c) shall be borne by the person seeking membership in
15 the Association.

16 **Sec. 3.** The Association may provide and raise funds in any legal manner to be used
17 as a pension fund for such person or persons as may be entitled thereto under the
18 provisions of this act and to such extent as is hereinafter set out.

19 **Sec. 4.** The governing body of the Association shall consist of a Board of Trustees
20 five seven in number, four from the active membership of the Fire Department, two
21 retired members of the Fire Department, and one to be appointed by the Insurance
22 Commissioner of the State of North Carolina.

23 **Sec. 5.** The Trustees from the membership of the Fire Department shall be elected by
24 the members of the Fire Department for four-year terms. Such terms shall be staggered,
25 so that two of the Trustees shall be elected during the month of January of each year
26 divisible evenly by two. Trustees that are slated to leave the Board are automatically
27 candidates for reelection unless they choose not to serve another term. In addition, the
28 elected Association Trustees shall select from the members of the Fire Department four
29 members in good standing, each of whom continuously served in the Fire Department
30 for a period of at least four years. A general election shall then be held by the
31 membership of the Fire Department to elect from the list of candidates two Trustees to
32 serve a four-year term. Each member of the Fire Department in good standing may cast
33 two votes for the member's choice of nominees. The nominee receiving the highest
34 number of votes in the election will be a member of the Winston-Salem Firemen's
35 Relief Fund Board as well as the Association Board. In the event that a Trustee is
36 unable to complete the Trustee's term, the nominee receiving the next highest number of
37 votes in the last election held and who is not then serving as a Trustee shall complete
38 the unexpired term of the Trustee who resigned from the Board. A tie shall be resolved
39 by casting lots. The Trustees who are retired members of the Fire Department shall be
40 appointed for four-year terms by the Trustees who are active members of the Fire
41 Department.

42 **Sec. 6.** Any Trustee may resign at any time by giving notice in writing to the other
43 Trustees. Should any Trustee who is a member of the Fire Department cease to be a
44 member of the Fire Department for any reason, he shall automatically cease to be a

1 Trustee. With regard to any Trustee elected by the members of the Association who
2 resigns or ceases to be a Trustee for any reason, his successor shall be elected as
3 provided in Section 5 of this act. Should the Trustee who was appointed by the
4 Insurance Commissioner of the State of North Carolina resign or cease to be a Trustee
5 for any reason, his successor shall be appointed by the said Insurance Commissioner.
6 Should any Trustee who is a retired member of the Fire Department resign or cease to
7 be a Trustee for any reason, that Trustee's successor shall be appointed by the Trustees
8 who are active members of the Fire Department as provided in Section 5 of this act.

9 **Sec. 7.** The Board of Trustees is herein fully vested with the exclusive right and
10 authority to pay out the funds of this Association, as provided for in this act. All matters
11 and claims provided for under this act shall be passed upon by said Trustees and all
12 decisions and actions of said Trustees shall be binding upon the Association and the
13 members thereof. Every Trustee shall be entitled to one vote except the chairman of the
14 Board of Trustees, who shall be entitled to vote only to break a tie. At every annual
15 meeting of the Board of Trustees, the Trustees shall elect a chairman, vice-chairman,
16 secretary and treasurer. The secretary and treasurer need not be Trustees, and the offices
17 of secretary and treasurer may be combined into a single office, in the discretion of the
18 Trustees. The annual meeting of the Board of Trustees shall be held as soon as is
19 practicable following the end of each calendar year at such place and at such time as
20 shall be determined by the Trustees.

21 **Sec. 8.** As of September 1, 2001, the secretary of the Association (or the
22 secretary-treasurer if such offices shall be combined into a single office) shall be
23 entitled to receive monthly compensation in an amount to be determined each year by
24 the Trustees. The Trustees, as such, including the chairman and the vice-chairman, shall
25 serve without compensation. The Trustees may authorize reimbursement by the
26 Association to any officer or Trustee of the Association for all expenses incurred by
27 such person in connection with services rendered in behalf of the Association.

28 **Sec. 9.** The Trustees shall elect a custodian of all funds and property of the
29 Association, provided that such custodian shall have first offered proof satisfactory to
30 the Trustees, by bond or otherwise, that it is and will be financially responsible for all
31 property coming into its hands in a fiduciary capacity. Said custodian shall not release
32 any of the funds or property of the Association for reasons other than investment of
33 such funds or property except upon the written authorization of the Trustees.

34 The Trustees shall also elect an investment manager who may or may not be the
35 same person as the custodian. Any such investment manager shall be a bank, or an
36 insurance company, or an entity registered under the Investment Advisor's Act of 1940.
37 The investment manager shall be authorized to invest and reinvest the funds or property
38 of the Association in the investment manager's own judgment and discretion. The
39 investment manager shall report to the Trustees on a periodic basis, but not less
40 frequently than each calendar quarter. The investment manager (including said
41 custodian when acting as investment manager) shall not be liable to the Association for
42 any act of failure to act by it, except for gross negligence or willful misconduct.

43 **Sec. 10.** A special meeting of the Board of Trustees may be called by the chairman
44 or vice-chairman, or by any two Trustees, upon 24 hours' written notice delivered in

1 person to the members of said Board or mailed to the last known address of each
2 member of said Board. A majority of the Trustees in office shall constitute a quorum at
3 any meeting and a majority vote of the Trustees at a meeting at which a quorum is
4 present shall constitute action by the Trustees.

5 **Sec. 11.** The chairman of the Board of Trustees, when present, shall preside at all
6 meetings. In the absence of the chairman, the vice-chairman shall act as chairman.

7 **Sec. 12.** The secretary shall keep in complete form such data as shall be necessary
8 for actuarial valuation of the funds of the Association and for checking the
9 disbursements for and on behalf of the Association. He shall keep minutes of all
10 proceedings of the Board of Trustees and of the Association, and the same shall be kept
11 in a place selected by the Trustees. The treasurer of the Association shall post yearly at
12 each fire station and at the office of fire administration, as soon as practicable following
13 the end of each year, a financial statement of the Association.

14 **Sec. 13.** The treasurer of the Association shall deposit with the custodian all funds
15 and property that may come into his hands for the Association. The said treasurer shall
16 obtain a receipt from the custodian for all funds and property delivered to the custodian
17 by the treasurer. Said custodian shall invest and reinvest such funds and property as
18 directed by the investment manager appointed under Section 9. Notwithstanding any
19 contrary provisions of Section 9 or of this section, the Trustees are specifically
20 authorized and empowered to invest funds of the Association by depositing such funds
21 with the Winston-Salem Firemen's Credit Union on condition that the Association shall
22 receive interest at an annual rate agreed upon by the Association and such credit union.

23 **Sec. 14.** The custodian and the investment manager shall receive compensation for
24 services rendered as may be agreed upon from time to time in writing by the Trustees
25 and by the custodian (with respect to services rendered by the custodian) or the
26 investment manager (with respect to services rendered by the investment manager). The
27 Trustees shall have the authority to employ legal counsel when, in the opinion of the
28 Trustees, legal counsel is necessary. In case of such employment, said counsel shall be
29 paid such fees as may be fair and reasonable as agreed upon in writing by the Trustees
30 and the counsel so employed.

31 **Sec. 15.** On or before August 31, 1987, the Board of Trustees of the Winston-Salem
32 Firemen's Relief Fund shall transfer to the Board of Trustees of the Winston-Salem
33 Firemen's Retirement Fund Association out of properties and funds belonging to the
34 Winston-Salem Firemen's Relief Fund the sum of fifty-four thousand dollars (\$54,000)
35 in cash or assets. The assets so transferred pursuant to the immediately preceding
36 sentence shall be transferred upon the basis of the fair market value thereof as of the
37 date of transfer, and the particular assets to be transferred shall be determined by joint
38 action of the Board of Trustees of the Winston-Salem Firemen's Relief Fund and the
39 Board of Trustees of the Winston-Salem Firemen's Retirement Fund Association. All
40 property of the Association is hereby relieved from any and all claims of the persons
41 entitled to relief from the Winston-Salem Firemen's Relief Fund. The North Carolina
42 Firemen's Association, its officers, members, boards and committees, are also hereby
43 relieved of any claim of any kind whatsoever which may be based on past service,
44 present service or future service in the Winston-Salem Fire Department. The

1 Winston-Salem Firemen's Relief Fund and the officers, members, boards and
2 committees of said Fund, are also hereby relieved of any claim of any kind whatsoever
3 which may be based on past, present or future service in the Winston-Salem Fire
4 Department, if any, so long as any claimant is entitled to benefits or pension under the
5 provisions of this act.

6 **Sec. 16.** (a) Notwithstanding the provisions of subsection (b) immediately following,
7 if a person who shall not be a member of the Association shall be transferred to the
8 employment of the Fire Department from the employment of the City of Winston-Salem
9 (hereinafter referred to as the City), the following provisions shall apply in determining
10 whether he shall be a member of the Association following such transfer:

11 (1) If he shall have attained at least his 18th birthday and shall not have
12 attained his 40th birthday on the date of such transfer, he shall
13 automatically become a member on such date of transfer. In
14 determining such transferred employee's number of years of
15 continuous employment by the City, employment with the City prior
16 to such transfer shall be taken into account only if such employee shall
17 elect to contribute to the Association the sum of (i) plus (ii) plus (iii),
18 where (i) is the amount of twelve dollars (\$12.00) per month,
19 measured from the date of his hire by the City until earlier of the date
20 of such transfer and June 30, 1998; (ii) is the aggregate amount that the
21 person would have contributed, determined in accordance with Section
22 17 of this act, measured from July 1, 1998, until the date of the
23 transfer, if the transfer occurs on or after July 1, 1998; and (iii) is
24 interest accrued at the rate of eight percent (8%) with respect to any
25 payments made on and after July 1, 1989, per annum, compounded
26 annually on the amount accrued as of the end of each fiscal year of the
27 Association.

28 (2) If he shall have attained at least his 40th birthday on the date of
29 transfer, but had not attained such birthday when last employed by the
30 City, he may elect within 90 days following such transfer to become a
31 member. If he elects to become a member, he shall contribute to the
32 Association the amount he would have contributed if he had become a
33 member on the day next preceding his 40th birthday. In addition, at the
34 option of such employee, he may further elect to contribute such
35 additional amount as he would have contributed prior to his 40th
36 birthday if his employment with the City had been with the Fire
37 Department. Any such contributions shall include interest at the rate of
38 eight percent (8%), applicable to any payments made on and after July
39 1, 1989, per annum, computed on the amount accrued as of the end of
40 each fiscal year of the Association.

41 (3) If he shall have attained at least his 40th birthday when last employed
42 by the City, he shall be ineligible to become a member following such
43 transfer.

1 (4) The elections specified in subdivisions (1) and (2) hereof shall be
2 made in writing to the Trustees within 90 days following such transfer,
3 and shall be irrevocable when made (subject to termination of
4 membership upon subsequent separation from employment with the
5 Fire Department). Any contributions (and interest) payable pursuant to
6 such election shall be paid in cash in a lump sum at the time such
7 election shall be filed.

8 (b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon
9 as practicable following April 3, 1979, (but in no event more than 60 days thereafter),
10 the Trustees gave each person who was then employed by the City of Winston-Salem as
11 a Public Safety Officer an election to be a member or not to be a member of the
12 Association. Each such election was to be made in accordance with procedures
13 established by the Trustees and was irrevocable when made (subject to termination of
14 membership upon a subsequent separation from the employment of the City, and subject
15 to the provisions of subsection (a) of this Section 16). If a Public Safety Officer failed to
16 file a timely election, he was deemed to have elected not to be a member. If a Public
17 Safety Officer who was a member on the date of the election elected to discontinue
18 membership (or shall have been deemed to have so elected), within 30 days following
19 such date there should have been refunded to him the full amount of his prior
20 contributions to the Association, if any, without interest. If a Public Safety Officer who
21 failed to make contributions prior to the election date elected to be a member, he shall
22 have within 30 days following such election paid to the Association the full amount he
23 would have contributed if he had made required contributions during the entire period
24 that he was eligible to be a member. Such contributions included interest at the rate of
25 six percent (6%) per annum, computed on the amount accrued as of the end of each
26 fiscal year of the Association.

27 (c) Any member whose employment by the Fire Department as a Public Safety
28 Officer shall be terminated on or after June 27, 1981, for any reason, including transfer
29 to another department in the employment of the City, shall be terminated immediately
30 as a member; provided, that any member who is transferred on or after July 1, 1981, to
31 another department of the City in a fire-related job shall not become a terminated
32 member if the following conditions are met: (i) within 15 days following the date of
33 such transfer he shall file with the Trustees a written election to continue as a member;
34 and (ii) such member shall be notified in writing by the secretary of the Association on
35 or before the date of transfer of his right to make the election. If a terminated member
36 shall reenter employment of the Fire Department, his eligibility to become a member
37 shall be determined at that time in accordance with Section 2 hereof, except to the
38 extent such individual may be entitled to elect to become a member upon a transfer of
39 employment as provided in subsection (a) of this Section 16.

40 (d) In determining the number of years of continuous employment of a member,
41 there shall be taken into account all years for which he shall make contributions in
42 accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes of
43 computing a member's years of continuous employment with the City, any period of
44 unused sick leave with the Fire Department accrued by the member on the date of his

1 retirement shall be deemed to be a period of continuous employment with the Fire
2 Department.

3 (e) If any member of the Association was employed by the Fire Department as a
4 cadet, such member's number of years of employment as a cadet may be added to the
5 period of his continuous employment with the City if, by July 31, 1981, such member
6 contributed to the Association an amount equal to twelve dollars (\$12.00) per month for
7 the time he was a cadet, plus interest at the rate of six percent (6%) per annum,
8 computed on the amount accrued as of the end of each fiscal year of the Association.

9 (f) If a member has been employed by the City continuously for a period of 10
10 years and has any military service, and is not otherwise treated under Section 26 as
11 being in the employment of the City during the period of such military service, the
12 period of such military service shall nevertheless be added to his period of continuous
13 employment with the City upon such member's paying to the Association an amount
14 equal to twelve dollars (\$12.00) for each month of such military service plus interest at
15 the rate of eight percent (8%), applicable to any payments made on and after July 1,
16 1989, per annum, compounded annually. Such military service shall be limited to the
17 initial period of active duty in the armed forces of the United States up to the time the
18 member was first eligible to be separated or released therefrom, and subsequent periods
19 of such active duty as required by the armed forces of the United States up to the date of
20 first eligibility for separation or release therefrom. The member must submit evidence
21 satisfactory to the Trustees of the military service claimed. Such election must be made
22 within one year after the member first becomes eligible to contribute for such military
23 service. Credit for military service under this subsection shall not be considered service
24 creditable under another retirement system for purposes of G.S. 128-26(a).

25 (g) If an individual who is an active participant in the North Carolina Local
26 Governmental Employees' Retirement System (the 'System') shall terminate service
27 with the employer enabling the individual to participate in the System (the 'System
28 Employer'), and shall immediately enter the employment of the Fire Department, he
29 may elect to have his period of service under the System considered as continuous
30 employment with the Fire Department for purposes of this act; provided, that such
31 election shall be permitted only if the individual was under age 40 when he entered the
32 employment of the System Employer. This election shall be made in writing to the
33 Trustees within 90 days of the individual's commencement of employment with the Fire
34 Department (or, with respect to an individual who becomes employed by the Fire
35 Department prior to July 1, 1989, this election shall be made on or before September 30,
36 1989). The election, if made, shall be accompanied by a cash contribution to the
37 Association equal to the sum of (i) plus (ii) plus (iii), where (i) is the amount of twelve
38 dollars (\$12.00) per month measured from the date of the person's hiring by the City
39 until the earlier of the transfer and June 30, 1998; (ii) is the aggregate amount that the
40 person would have contributed, determined in accordance with Section 17 of this act,
41 measured from July 1, 1998, until the date of the transfer, if the transfer occurs on or
42 after July 1, 1998; and (iii) is interest accrued at the rate of eight percent (8%) per
43 annum, compounded annually on the amount accrued as of the end of each fiscal year of

1 the Association. The election shall be irrevocable when made. If the election is not
2 made in a timely fashion, the right to make the election is forfeited.

3 **Sec. 17.** The Treasurer of the City shall make a deduction from the salary of each
4 member of the Association due him by the City. As of September 1, 2001, the amount
5 of each such deduction shall be determined as of the first day of each payroll period of
6 the City, and shall be equal to the quotient (rounded up to the next whole dollar amount)
7 obtained by dividing (i) the product, rounded to the nearest dollar, of .007 multiplied by
8 the annual starting salary of a firefighter employed by the Fire Department in effect at
9 the beginning of that payroll period; by (ii) the number of payroll periods in that fiscal
10 year of the City. The amount so deducted shall be turned over as soon as practicable
11 after the applicable payroll period by the said Treasurer to the custodian of the
12 Association as hereinbefore provided, and the Association shall have the authority to
13 accept donations from any and all sources whatsoever.

14 **Sec. 18.** If at any time there shall not be sufficient assets in the retirement fund of the
15 Association to pay fully the persons entitled to benefits provided herein, such persons
16 shall be paid such benefits on a pro rata basis to the extent the assets of such fund will
17 allow, as shall be determined by the Trustees acting upon the advice of the
18 Association's actuary. Effective on or after July 1, 1998, the Trustees shall obtain a
19 written report from the Association's actuary as of July 1 of each year evenly divisible
20 by two, or more frequently if the Trustees deem advisable, setting forth the present
21 value of the assets of the fund and the present value of current liabilities of current
22 retirees.

23 **Sec. 19.** (a) Whenever any member of the Association has been employed by the
24 City continuously for a period of at least 30 years, such member may make written
25 application to the trustees for his normal retirement benefit, and whenever any member
26 of the Association has been employed by the City continuously for a period of at least
27 25 years but not more than 30 years, such member may make written application to the
28 Trustees for his early retirement benefit; provided, however, that such member must
29 retire from the service of the City to receive such benefits. The normal and early
30 retirement benefits of such member shall be a monthly pension for the remainder of his
31 life, as provided herein below. For this purpose and for the purpose of Section 20
32 hereof, a member shall be deemed to have been employed by the City continuously if
33 such member shall have been employed continuously by any combination of the Fire
34 Department or Police Department (but only such employment by the Police Department
35 as is described in subsection 16(b) and (c) hereof), and the transfer of a member from
36 the employ of one of such organizations to the employ of the other such organization
37 shall not be deemed to be a termination of employment by the City. Provided, that if a
38 member has at least 25 years of employment with the City, but such service is not
39 continuous solely because of a leave of absence lasting not more than a year and not
40 described in Section 26, such member shall be deemed to have continuous employment
41 with the City during such leave of absence; and provided further, that if a member has
42 less than 25 years of employment with the City but the sum of his years of employment
43 with the City plus any leave of absence lasting not more than one year and not described
44 in Section 26, equals or exceeds 25 years, the period of such leave shall be deemed to be

1 continuous employment with the City if such member contributes to the Association
 2 twelve dollars (\$12.00) for each month he was on such leave, plus interest at the rate of
 3 eight percent (8%), applicable to any payments made on and after July 1, 1989, per
 4 annum, computed on the amount accrued as of the end of each fiscal year of the
 5 Association.

6 (b) Effective beginning July 1, 1989, and ending June 30, 1990, the amount of
 7 the monthly pension for each member who is entitled to receive a normal retirement
 8 benefit (including members who retired prior to July 1, 1989) shall be two hundred
 9 dollars (\$200.00). Effective beginning July 1, 1990, and ending June 30, 1998, the
 10 amount of the monthly pension for each member who is entitled to receive a normal
 11 retirement benefit, including members who retired prior to July 1, 1990, shall be two
 12 hundred fifteen dollars (\$215.00). Effective on and after July 1, 1998, the amount of the
 13 monthly pension for each member who is entitled to receive a normal retirement benefit
 14 (including members who retired prior to that date) shall be two hundred five dollars
 15 (\$205.00). The amount of the monthly pension for each member who is entitled to
 16 receive an early retirement benefit as of any date prior to July 1, 1998, shall be the
 17 product of (1) and (2), where (1) is the applicable percentage listed in the following
 18 table based on his years of continuous employment at his early retirement date, and (2)
 19 is the amount of the payment that he would have received as a normal retirement benefit
 20 under this section as of that date:

22	Years of Employment at	Percentage of Normal
23	Retirement Date	Retirement Benefit
24	25	85%
25	26	88%
26	27	91%
27	28	94%
28	29	97%

29
 30 Effective on and after July 1, 1998, the amount of the monthly pension for each member
 31 who began receiving an early retirement benefit prior to July 1, 1998, shall be further
 32 reduced by multiplying the monthly pension amount by 0.9535.

33 (c) Effective on and after July 1, 1998, the amount of the monthly pension of
 34 each member who retires on or after that date and is entitled to receive an early
 35 retirement benefit shall be the product of (1) the applicable percentage listed in the
 36 following table based on the member's years of continuous employment at the member's
 37 early retirement date, and (2) the amount of the payment that the member would have
 38 received as a normal retirement benefit under this section as of that date:

40	Years of Employment at	Percentage of Normal
41	Retirement Date	Retirement Benefit
42	25	70%
43	26	76%
44	27	82%

1 28 88%
2 29 94%

3
4 Payment shall be subject to the provisions of Section 18 of this act. Section 16(d)
5 governs the determinations of a member's years of continuous employment.

6 (d) Any benefit payable to a member pursuant to this Section 19 shall commence
7 not later than the April 1 immediately following the calendar year in which the member
8 attains age 70 and 1/2 or, if later, the April 1 immediately following the calendar year in
9 which the member retires from the service of the City. Additionally, the distribution of
10 any such benefit shall be made in accordance with the requirements of section 401(a) of
11 the Internal Revenue Code, including the minimum distribution incidental benefit
12 requirement of section 1.401(a)(9)-2 of the Treasury Regulations, which are
13 incorporated herein by reference. With respect to distributions made for the calendar
14 years beginning on or after January 1, 2001, the act will apply the minimum distribution
15 requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the
16 regulations under section 401(a)(9) of the Internal Revenue Code that were proposed on
17 January 17, 2001, notwithstanding any provision of the act to the contrary. This
18 amendment shall continue in effect until the end of the last calendar year beginning
19 before the effective date of final regulations under section 401(a)(9) of the Internal
20 Revenue Code or such other date as may be specified in guidance published by the
21 Internal Revenue Service.

22 (e) Notwithstanding any provision in this Section 19 to the contrary, effective as
23 of December 12, 1994, the act shall at all times be construed and enforced according to
24 the requirements of the Uniformed Services Employment and Reemployment Rights
25 Act of 1994.

26 **Sec. 20.** Whenever any member of the Association becomes totally and permanently
27 unable, because of infirmity or disease affecting mind or body (whether or not induced
28 by injury) to perform his duties for the City, which inability shall be determined by a
29 medical examination by a physician or physicians of good standing and repute selected
30 by the Trustees, he shall be deemed to be a disabled member. If a disabled member has
31 been employed by the City for at least five full years prior to suffering disability, he
32 shall be entitled to retire and receive a monthly benefit payable for the remainder of his
33 life.

34 Effective beginning July 1, 1989, and ending June 30, 1990, the monthly benefit of a
35 member who retires as a disabled member (including a member who retired as a
36 disabled member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his years
37 of service but in no event more than two hundred dollars (\$200.00) per month. Effective
38 beginning July 1, 1990, and ending June 30, 1998, the monthly benefit of a member
39 (including a member who retires as a disabled member prior to this date) shall equal
40 eight dollars and sixty cents (\$8.60) times his years of service, but in no event more than
41 two hundred fifteen dollars (\$215.00) per month. Effective on and after July 1, 1998, the
42 monthly benefit of a member who retires as a disabled member, including a member
43 who retires as a disabled member prior to July 1, 1998, shall equal eight dollars and
44 twenty cents (\$8.20) times his years of service, but in no event more than two hundred

1 five dollars (\$205.00) per month. For this purpose only, years of service shall mean the
2 number of his earned years of service in the employment of the City (as determined
3 pursuant to Section 16(d) of this act). Payments shall be subject to the provisions of
4 Section 18 of this act.

5 Notwithstanding the foregoing provisions of this Section 20, in the case of a disabled
6 member whose disability shall arise out of injuries incurred in fire safety activities, such
7 as fire fighting, fire training and fire inspection, such monthly benefit shall in no event
8 be less than forty dollars (\$40.00) per month, whether or not such disabled member was
9 employed by the City for at least five years prior to suffering such disability. The
10 determination of whether such disability arises out of injuries incurred in fire safety
11 activities shall be made by the Trustees.

12 **Sec. 21.** Any disabled member of the Association who retires under Section 19
13 hereof and who had not been employed by the City for a period of at least 30 years prior
14 to retirement, shall be subject to call by the Trustees for reexamination by a physician of
15 good standing and repute selected by the Trustees and, if based upon such examination
16 it is determined by the Trustees that such member is able to perform active duties for the
17 City, such member may be reinstated and receive for his services the same
18 compensation paid to other employees of the City of his rank or classification. If such
19 member, upon being called by the Trustees, shall refuse to submit to an examination or
20 shall refuse to be reinstated to active duty in the employ of the City after being found to
21 be able to perform active duty, such benefits as he is then receiving under the provisions
22 of this act shall immediately terminate and his membership in this Association shall
23 automatically terminate. But in the event that such member is physically unable to
24 resume active employment, or in the event he is able and willing to resume active
25 employment but no job with the City is open for him at such time, his pension or
26 compensation shall continue until there shall be an opening for such member and he is
27 reemployed by the City. For the purpose of this Section 21, employment with the City
28 shall mean only employment with the Fire Department or Police Department (but
29 employment with the Police Department shall be included only with regard to any such
30 member who was employed with the Police Department prior to his retirement under
31 Section 20 hereof).

32 **Sec. 22.** When any member of the Association shall resign or be dismissed from
33 employment by the City (which for this purpose shall include only employment with the
34 Fire Department or Police Department), he shall receive a sum of money equal to all
35 monies paid into the Association by him. Upon the death of any member of the
36 Association while in the employment of the City, a sum of money equal to all monies
37 paid into the Association by such deceased member shall be paid to the beneficiary or
38 beneficiaries designated in writing by such deceased member, or in default thereof, to
39 his estate. If, after retirement, a member of the Association shall die before having
40 received an amount equal to his contributions to the Association, there shall be paid to
41 the beneficiary or beneficiaries designated by such member, or in default thereof to his
42 estate, an amount equal to his contributions less the sum of retirement benefits paid to
43 such member. The reimbursements provided in this Section 22 shall be in cash in a
44 lump sum, unless otherwise determined by the Trustees with the consent in writing of

1 the recipient thereof less interest, if any, previously contributed to the Association by
2 the member pursuant to Section 16 or Section 19.

3 **Sec. 23.** No amount payable or held by the Association under this act for the benefit
4 of any member or beneficiary thereof shall be subject in any manner to anticipation,
5 alienation, sale, transfer, assignment, pledge, encumbrance or charge, nor shall any
6 amount payable or held under this act for the benefit of any member or beneficiary
7 thereof be in anywise liable for his debts, contracts, liabilities, engagements, or torts,
8 nor be subject to any legal process to levy upon or attach, but the provisions of this
9 Section 22 shall not be applicable as regards any dealings with or obligations to the
10 Winston-Salem Firemen's Credit Union.

11 **Sec. 24.** Out of the amount paid to the Insurance Commissioner of the State of North
12 Carolina upon the amount of all premiums on fire and lightning policies covering
13 property situated in the corporate limits of the City, the Insurance Commissioner of the
14 State of North Carolina shall pay annually to the Treasurer of the City ninety-five
15 percent (95%), and the Treasurer of the City shall immediately pay over the same to the
16 treasurer of the Association, or if the treasurer of the Association shall so direct, the
17 Treasurer of the City shall pay such amount directly to the custodian.

18 **Sec. 25.** No member of this Association or Trustee shall be personally liable in any
19 manner whatsoever to any person, association, firm or corporation by reason of his
20 connection with, or act or acts on behalf of, said Association, unless such act or acts are
21 fraudulently committed.

22 **Sec. 26.** If a member of the Association, or an employee of the Fire Department or
23 Police Department who is not a member of the Association due to failure to meet the
24 minimum age requirements of subsection 2(b) hereof, is granted a leave of absence from
25 employment by the City on account of accidental injury or temporary illness, military
26 service during time of active warfare, compulsory military service in time of peace, or
27 other good cause, for the purpose of this act such employee shall be deemed to have
28 remained in the employment of the City during the period of such leave of absence or
29 any extension thereof if he shall return to active service with the City promptly
30 following the end of the period of such leave of absence or extension thereof. During
31 such leave of absence or extension thereof, the Treasurer of the City shall make no
32 deductions from the salary, if any, of such member, and such member shall not
33 otherwise be required to make any contributions to the Association during or with
34 respect to such period.

35 **Sec. 27.** If any person entitled to benefits under this act shall be physically or
36 mentally incapable of receiving or acknowledging receipt of such benefits, the Trustees,
37 upon receipt of satisfactory evidence of such incapacity and that another person or
38 institution is maintaining such person entitled to benefits, and that no guardian or
39 committee has been appointed for him, may cause any benefits otherwise payable to
40 him to be made to such person or institution so maintaining him.

41 **Sec. 28.** The provisions of this act shall be administered on an equitable and
42 nondiscriminatory basis, it being the intent hereof that where the Trustees are given
43 discretionary powers, such powers shall be exercised in an equitable manner and so as
44 to prevent discrimination between persons similarly situated. All assets of the

1 Association shall be administered for the exclusive benefit of the members of the
2 Association and their beneficiaries, and as a fund to provide for such members or
3 beneficiaries the benefits provided in this act. It shall be impossible for any part of the
4 principal or income of the retirement fund of the Association to be used for or diverted
5 to purposes other than for the exclusive benefit of the members of the Association or
6 their beneficiaries as provided in this act; except that the Trustees may use such assets
7 to pay the reasonable expenses incurred in administering the said fund and any debts,
8 liabilities or obligations of said fund. The assets and income of the fund shall be exempt
9 from all taxes, including income taxes, imposed by the State of North Carolina or any
10 political subdivision thereof.

11 **Sec. 28A.** (a) Upon termination of the Association or upon complete discontinuance
12 of contributions to the Association, the rights of all members of the Association to
13 benefits accrued to the date of the termination or discontinuance, to the extent then
14 funded, are nonforfeitable.

15 (b) Forfeitures under the Association may not be applied to increase the benefits
16 that any member would otherwise receive under the Association.

17 (c) Notwithstanding any provision of the Association to the contrary, the
18 maximum annual benefit payable in the form of a straight life annuity from the
19 Association on behalf of a member, when combined with any benefits from another
20 qualified retirement plan maintained by the Fire Department of the City of
21 Winston-Salem, shall not exceed the amount permitted by section 415 of the Internal
22 Revenue Code. ~~Code.~~ Code, the provisions of which are specifically incorporated by reference
23 into this act.

24 (d) In addition to the other applicable limitations set forth in this act, and
25 notwithstanding any other provision of this act to the contrary, for plan years beginning
26 on or after January 1, 1996, the annual compensation of each member taken into
27 account under this act shall not exceed the OBRA 1993 annual compensation limit. The
28 OBRA 1993 annual compensation limit is one hundred fifty thousand dollars
29 (\$150,000), as adjusted by the Commissioner for increase in the cost of living in
30 accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost of living
31 adjustment in effect for a calendar year applies to any period, not exceeding 12 months,
32 over which compensation is determined (the "determination period") beginning in that
33 calendar year. If a determination period consists of fewer than 12 months, the OBRA
34 1993 annual compensation limit shall be multiplied by a fraction, the numerator of
35 which is the number of months in the determination period, and the denominator of
36 which is 12. If compensation for any prior determination period is taken into account in
37 determining a member's benefits accruing in the current plan year, the compensation for
38 that prior determination period is subject to the OBRA 1993 annual compensation limit
39 in effect for that prior determination period. For this purpose, for determination periods
40 beginning before the first day of the first plan year beginning on or after January 1,
41 1996, the OBRA 1993 annual compensation limit is one hundred fifty thousand dollars
42 (\$150,000). Effective for plan years beginning on or after January 1, 2002, the OBRA
43 1993 annual compensation limit shall be two hundred thousand dollars (\$200,000), as

1 adjusted by the Commissioner for increases in the cost of living in accordance with
2 section 401(a)(17)(B) of the Internal Revenue Code.

3 (e) This subsection applies to distributions made on or after January 1, 2002.
4 Notwithstanding any provision of this act to the contrary that would otherwise limit a
5 distributee's election under this subsection, a distributee may elect, at the time and in the
6 manner prescribed by the Trustees, to have any portion of an eligible rollover
7 distribution paid directly to an eligible retirement plan specified by the distributee in a
8 direct rollover. The following definitions shall apply for purposes of this subsection:

9 (1) Eligible rollover distribution. An eligible rollover distribution is any
10 distribution of all or any portion of the balance to the credit of the
11 distributee, except that an eligible rollover distribution does not
12 include:

- 13 a. Any distribution that is one of a series of substantially equal
14 periodic payments (not less frequently than annually) made for
15 the life (or life expectancy) of the distributee or the joint lives
16 (or joint life expectancies) of the distributee and the
17 distributee's designated beneficiary, or for a specified period of
18 10 years or more;
- 19 b. Any distribution to the extent such distribution is required under
20 section 401(a)(9) of the Internal Revenue Code; or
- 21 c. ~~Any hardship distribution described in section~~
22 ~~401(k)(2)(B)(i)(IV) of the Internal Revenue Code.~~ distribution
23 that is made upon the hardship of the distributee.

24 Notwithstanding the foregoing, a portion of a distribution shall not fail
25 to be an eligible rollover distribution merely because the portion
26 consists of after-tax employee contributions that are not includible in
27 gross income. However, such a portion may be transferred only to an
28 individual retirement account or annuity described in section 408(a) or
29 section 408(b) of the Internal Revenue Code, or to a qualified defined
30 contribution plan described in section 401(a) or section 403(a) of the
31 Internal Revenue Code that agrees to separately account for amounts
32 so transferred, including separately accounting for the portion of that
33 distribution that is includible in gross income and the portion of that
34 distribution that is not so includible.

- 35 (2) Eligible retirement plan. An eligible retirement plan is an individual
36 retirement account described in section 408(a) of the Internal Revenue
37 Code, an individual retirement annuity described in section 408(b) of
38 the Internal Revenue Code, or a qualified trust described in section
39 401(a) of the Internal Revenue Code, that accepts the distributee's
40 eligible rollover distribution. An eligible retirement plan shall also
41 mean an annuity contract described in section 403(b) of the Internal
42 Revenue Code and an eligible plan under section 457(b) of the Internal
43 Revenue Code that is maintained by a state, a political subdivision of a
44 state, or any agency or instrumentality of a state or a political

1 subdivision of a state, and that agrees to separately account for
2 amounts transferred into that plan from the Association. The definition
3 of eligible plan shall also apply in the case of a distribution to a
4 surviving spouse, or to a spouse or former spouse who is the alternate
5 payee under a qualified domestic relations order, as defined in section
6 414(p) of the Internal Revenue Code. Effective January 1, 2008, an
7 eligible retirement plan shall also mean a Roth IRA as described in
8 section 408A of the Internal Revenue Code.

9 (3) Distributee. A distributee includes a member or former member of the
10 Association. In addition, the surviving spouse of a member or former
11 member is a distributee with regard to the interest of the member or
12 former member.

13 (4) Direct rollover. A direct rollover is a payment by the Association to
14 the eligible retirement plan specified by the distributee.

15 (5) Rollovers by nonspouse beneficiaries. Notwithstanding anything in
16 this subsection to the contrary, effective January 1, 2007, the benefits
17 of nonspouse beneficiaries may be transferred in a direct rollover to an
18 inherited individual retirement account or an inherited individual
19 retirement annuity ("inherited IRA"). Once in the inherited IRA,
20 distributions will be made in compliance with the minimum
21 distribution rules of section 401(a)(9) of the Internal Revenue Code
22 that apply following the death of a member.

23 **Sec. 28B. (a)** This section shall apply for purposes of determining required
24 minimum distributions for calendar years beginning with the 2003 calendar year. The
25 requirements of this section shall take precedence over any inconsistent provisions of
26 the Association. All distributions required under this section shall be determined and
27 made in accordance with the Treasury Regulations under section 401(a)(9) of the
28 Internal Revenue Code, which are specifically incorporated by reference into this act.
29 Notwithstanding the other provisions of this section, distributions may be made under a
30 designation made before January 1, 1984, in accordance with section 242(b)(2) of the
31 Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the
32 Association that relate to section 242(b)(2) of TEFRA.

33 (b) Time and Manner of Distribution. –

34 (1) Required beginning date. – The member's entire interest will be
35 distributed, or begin to be distributed, to the member no later than the
36 member's required beginning date.

37 (2) Death of member before distributions begin. – If the member dies
38 before distributions begin, the member's entire interest will be
39 distributed, or begin to be distributed, no later than as follows:

40 a. If the member's surviving spouse is the member's sole
41 designated beneficiary, as defined in section 28(e)(1), then
42 distributions to the surviving spouse will begin by December 31
43 of the calendar year immediately following the calendar year in
44 which the member died, or by December 31 of the calendar

1 year in which the member would have attained age 70 ½, if
2 later.

3 b. If the member's surviving spouse is not the member's sole
4 designated beneficiary, then distributions to the designated
5 beneficiary will begin by December 31 of the calendar year
6 immediately following the calendar year in which the member
7 died.

8 c. If there is no designated beneficiary as of September 30 of the
9 year following the year of the member's death, the member's
10 entire interest will be distributed by December 31 of the
11 calendar year containing the fifth anniversary of the member's
12 death.

13 d. If the member's surviving spouse is the member's sole
14 designated beneficiary and the surviving spouse dies after the
15 member but before distributions to the surviving spouse begin,
16 the provisions of this subdivision, except for sub-subdivision a.
17 of this subdivision, will apply as if the surviving spouse were
18 the member.

19 For purposes of this subdivision and of subsection (d) of this section,
20 distributions are considered to begin on the member's required
21 beginning date, or if sub-subdivision d. of this subdivision applies, the
22 date distributions are required to begin to the surviving spouse under
23 sub-subdivision a. of this subdivision. If annuity payments irrevocably
24 commence to the member before the member's required beginning
25 date, or to the member's surviving spouse before the date distributions
26 are required to begin to the surviving spouse under sub-subdivision a.
27 of this subdivision, the date distributions are considered to begin is the
28 date distributions actually commence.

29 (3) Forms of distribution. – Unless the member's interest is distributed in
30 the form of an annuity purchased from an insurance company or in a
31 single lump sum on or before the required beginning date, as of the
32 first distribution calendar year, as defined in subdivision (2) of
33 subsection (e) of this section, distributions will be made in accordance
34 with subsections (b), (c), and (d) of this section. If the member's
35 interest is distributed in the form of an annuity purchased from an
36 insurance company, distributions under that annuity shall be made in
37 accordance with the requirements of section 401(a)(9) of the Internal
38 Revenue Code and the Treasury Regulations.

39 (b) Determination of Amount to be Distributed Each Year. –

40 (1) General annuity requirements. – If the member's interest is paid in the
41 form of annuity distributions from the Association, payments under the
42 annuity will satisfy the following requirements:

43 a. The annuity distributions shall be paid in periodic payments
44 made at intervals not longer than one year;

- 1 b. The distribution period shall be over a life, or lives, or over a
2 period certain not longer than the period described in subsection
3 (c) or (d) of this section;
- 4 c. Once payments have begun over a period certain, the period
5 certain will not be changed even if the period certain is shorter
6 than the maximum permitted;
- 7 d. Payments will either not increase or will increase only as
8 follows:
- 9 1. By an annual percentage increase that does not exceed
10 the annual percentage increase in an eligible
11 cost-of-living index, as defined in subdivision (3) of
12 subsection (e) of this section, for a 12-month period
13 ending in the year during which the increase occurs or
14 the prior year;
- 15 2. By a percentage increase that occurs at specified times
16 and does not exceed the cumulative total of annual
17 percentage increases in an eligible cost-of-living index
18 since the annuity starting date, or if later, the date of the
19 most recent percentage increase. However, in cases
20 providing such a cumulative increase, an actuarial
21 increase may not be provided to reflect the fact that
22 increases were not provided in the interim years;
- 23 3. To the extent of the reduction in the amount of the
24 member's payments to provide for a survivor benefit
25 upon death, but only if the beneficiary whose life was
26 being used to determine the distribution period described
27 in subsection (c) of this section dies or is no longer the
28 member's beneficiary pursuant to a qualified domestic
29 relations order within the meaning of section 414(c) of
30 the Internal Revenue Code.
- 31 4. To pay increased benefits that result from an amendment
32 to the Association; or
- 33 5. To allow a beneficiary to convert the survivor portion of
34 a joint and survivor annuity into a single sum distribution
35 upon the member's death.

- 36 (2) Amount required to be distributed by required beginning date. – The
37 amount that must be distributed on or before the member's required
38 beginning date, or if the member dies before distributions begin, the
39 date distributions are required to begin under sub-subdivisions a. or b.
40 of subdivision (2) of subsection (a) of this section is the payment that
41 is required for one payment interval. The second payment need not be
42 made until the end of the next payment interval even if that payment
43 interval ends in the next calendar year. Payment intervals are the
44 periods for which payments are received, such as bimonthly, monthly,

1 semiannually, or annually. All of the member's benefit accruals as of
2 the last day of the first distribution calendar year shall be included in
3 the calculation of the amount of the annuity payments for payment
4 intervals ending on or after the member's required beginning date.

- 5 (3) Additional accruals after first distribution calendar year. – Any
6 additional benefits accruing to the member in a calendar year after the
7 first distribution calendar shall be distributed beginning with the first
8 payment interval ending in the calendar year immediately following
9 the calendar year in which such amount accrues.

10 (c) Requirements for Annuity Distributions that Commence during Member's
11 Lifetime. –

- 12 (1) Joint life annuities where the beneficiary is not the member's spouse. –
13 If the member's interest is being distributed in the form of a joint and
14 survivor annuity for the joint lives of the member and a nonspouse
15 beneficiary, annuity payments to be made on or after the member's
16 required beginning date to the designated beneficiary after the
17 member's death must not at any time exceed the applicable percentage
18 of the annuity payment for that period that would have been payable to
19 the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6
20 of the Treasury Regulations. The applicable percentage is based upon
21 the adjusted age difference between the member and the beneficiary.
22 The adjusted age difference between the member and the beneficiary is
23 determined by first calculating the excess of the age of the member
24 over the age of the beneficiary based upon their ages on their birthdays
25 in a calendar year. Then, if the member is younger than age 70, the age
26 difference determined in the previous sentence is reduced by the
27 number of years that the member is younger than age 70 on the
28 member's birthday in the calendar year that contains the annuity
29 starting date. If the form of distribution combines a joint and survivor
30 annuity for the joint lives of the member and a nonspouse beneficiary
31 and a period certain annuity, the requirement in the preceding sentence
32 shall apply to annuity payments to be made to the designated
33 beneficiary after the expiration of the period certain.

- 34 (2) Period certain annuities. – Unless the member's spouse is the sole
35 designated beneficiary and the form of distribution is a period certain
36 and no life annuity, the period certain for an annuity distribution
37 commencing during the member's lifetime may not exceed the
38 applicable distribution period for the member under the Uniform
39 Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury
40 Regulations for the calendar year that contains the annuity starting
41 date. If the annuity starting date precedes the year in which the
42 member reaches age 70, the applicable distribution period for the
43 member is the distribution period for age 70 under the Uniform
44 Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury

1 Regulations plus the excess of 70 over the age of the member as of the
2 member's birthday in the year that contains the annuity starting date. If
3 the member's spouse is the member's sole designated beneficiary and
4 the form of distribution is a period certain and no life annuity, the
5 period certain may not exceed the longer of the member's applicable
6 distribution period, as determined under subsection (b) of this section,
7 or the joint life and last survivor expectancy of the member and the
8 member's spouse as determined under the Joint and Last Survivor
9 Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations,
10 using the member's and spouse's attained ages as of the member's and
11 spouse's birthdays in the calendar year that contains the annuity
12 starting date.

13 (d) Requirements for Minimum Distributions where Member Dies before Date
14 Distributions Begin –

- 15 (1) Member survived by designated beneficiary. – If the member dies
16 before the date distribution of the member's interest begins and there is
17 a designated beneficiary, the member's entire interest will be
18 distributed, beginning no later than the time described in
19 sub-subdivision a. or b. of subdivision (2) of subsection (a) of this
20 section, over the life of the designated beneficiary or over a period
21 certain not exceeding:
- 22 a. Unless the annuity starting date is before the first distribution
23 calendar year, the life expectancy, as defined in subdivision (4)
24 of subsection (e) of this section, of the designated beneficiary
25 determined using the beneficiary's age as of the beneficiary's
26 birthday in the calendar year immediately following the
27 calendar year of the member's death; or
- 28 b. If the annuity starting date is before the first distribution
29 calendar year, the life expectancy of the designated beneficiary
30 determined using the beneficiary's age as of the beneficiary's
31 birthday in the calendar year that contains the annuity starting
32 date.
- 33 (2) No designated beneficiary. – If the member dies before the date
34 distributions begin and there is no designated beneficiary as of
35 September 30 of the year following the year of the member's death,
36 distribution of the member's entire interest will be completed by
37 December 31 of the calendar year containing the fifth anniversary of
38 the member's death.
- 39 (3) Death of surviving spouse before distributions to surviving spouse
40 begin. – If the member dies before the date distribution of the
41 member's interest begins, the member's surviving spouse is the
42 member's sole designated beneficiary, and the surviving spouse dies
43 before distributions to the surviving spouse begin, this subsection will
44 apply as if the surviving spouse were the member, except that the time

1 by which distributions must begin will be determined without regard to
2 subdivision (1) of subsection (a) of this section.

3 (e) Definitions. –

- 4 (1) Designated beneficiary. – The individual who is designated as the
5 beneficiary under the Association in accordance with section 401(a)(9)
6 of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4 of the
7 Treasury Regulations.
- 8 (2) Distribution calendar year. – A calendar year for which a minimum
9 distribution is required. For distributions beginning before the
10 member's death, the first distribution calendar year is the calendar year
11 immediately preceding the calendar year that contains the member's
12 required beginning date. For distributions beginning after the
13 member's death, the first distribution date is the calendar year in which
14 distributions are required to begin pursuant to subsection (a) of this
15 section.
- 16 (3) Eligible cost-of-living index. – One of the following:
- 17 a. A consumer price index that is based on prices of all items, or
18 all items excluding food and energy, and is issued by the
19 Bureau of Labor Statistics, including an index for a specific
20 population, such as urban consumers or urban wage earners and
21 clerical workers, and an index for a geographic area or areas,
22 such as a given metropolitan area or state.
- 23 b. A percentage adjustment based on a cost-of-living index
24 described in sub-subdivision a. of this subdivision, or a fixed
25 percentage if less. In any year in which the cost-of-living index
26 is lower than the fixed percentage, the fixed percentage may be
27 treated as an increase in an eligible cost-of-living index,
28 provided it does not exceed the sum of:
- 29 1. The cost-of-living index for that year; and
30 2. The accumulated excess if the annual cost-of-living
31 index from each prior year over the fixed annual
32 percentage used in that year, reduced by any amount
33 previously used under this sub-subdivision.
- 34 c. A percentage adjustment based on the increase in compensation
35 for the position held by the member at the time of retirement,
36 and provided under either the terms of a governmental plan
37 within the meaning of section 414(d) of the Internal Revenue
38 Code or under the terms of a nongovernmental plan in effect on
39 April 17, 2002.
- 40 (4) Life expectancy. – Life expectancy as computed by use of the Single
41 Life Table in section 1. 401(a)(9)-9 of the Treasury Regulations.
- 42 (5) Required beginning date. – April 1 of the calendar year following the
43 later of (i) the calendar year in which the member attains age 70 ½; or
44 (ii) the calendar year in which the member retires. Notwithstanding the

1 foregoing, the required beginning date of a member who is a five
2 percent (5%) owner, as defined in section 416 of the Internal Revenue
3 Code, shall be April 1 of the calendar year following the calendar year
4 in which the member attains age 70 ½. In the event that, as of the
5 required beginning date, the amount of the payment to commence
6 cannot be determined or the recipient of the payment cannot be located
7 after a reasonable effort has been made to locate the recipient,
8 payments retroactive to the required beginning date shall be made
9 within 60 days after the amount has been determined or the recipient
10 has been located, whichever is applicable.

11 **Sec. 29.** The fiscal year of the Association shall end on June 30 of each year.

12 **Sec. 30.** Throughout this act, use of the masculine pronoun shall include the
13 feminine.

14 **Sec. 31.** If any part or section of this act shall be declared unconstitutional or invalid
15 by the Supreme Court of North Carolina or any other court of last resort of competent
16 jurisdiction it shall in no wise affect the remainder of this act, and the remainder shall
17 remain in full force and effect.

18 **Sec. 32.** All the laws and clauses of laws in conflict with the provisions of this act
19 are hereby repealed."

20 **SECTION 2.** None of the provisions of this act shall create an additional
21 liability for the Winston-Salem Firemen's Retirement Fund Association unless sufficient
22 funds are available to pay fully for the liability.

23 **SECTION 3.** This act becomes effective July 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

2

HOUSE BILL 2451
Committee Substitute Favorable 6/18/08

Short Title: Elkin/Burlington Vol. Firemen's Retirement.

(Local)

Sponsors:

Referred to:

May 26, 2008

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SUPPLEMENTAL RETIREMENT FUND FOR
VOLUNTEER FIREMEN IN THE TOWN OF ELKIN AND TO REPEAL THE
PROVISIONS PROVIDING SUPPLEMENTAL RETIREMENT FUNDS FOR
FIREMEN IN THE CITY OF BURLINGTON.

The General Assembly of North Carolina enacts:

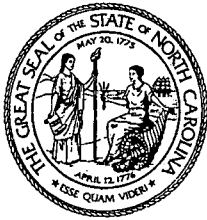
SECTION 1. Subsection (a) of Section 3 of Chapter 391 of the 1971 Session
Laws reads as rewritten:

"(a) Each active volunteer fireman of the Town who has retired subsequent to
January 1, 1969, and who has attained the age of 55 with thirty (30) years' service or
more as a town volunteer fireman, shall be entitled to and shall receive in each calendar
month following the calendar month in which he or she retires a monthly supplemental
retirement benefit equal to ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each full year of
service as a volunteer fireman of the Town; provided, in the event, in any calendar
month, funds in the Supplemental Retirement Fund are not available to pay a benefit
equal to ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each full year of service as a
volunteer fireman of the Town, the Board of Trustees shall specify a lesser amount to be
paid."

SECTION 2. Chapter 321 of the 1969 Session Laws, as amended by
Chapter 1144 of the 1979 Session Laws and Chapter 612 of the 1987 Session Laws, is
repealed.

SECTION 3. All funds remaining in the Burlington Firemen's Supplemental
Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund are
transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of
Burlington, to be held and administered as provided in Article 84 of Chapter 58 of the
General Statutes.

SECTION 4. Section 1 of this act becomes effective July 1, 2008, and
applies to the payment of benefits on or after that date. The remainder of this act is
effective when it becomes law.



HOUSE BILL 2451: Elkin/Burlington Vol. Firemen's Retirement

BILL ANALYSIS

Committee:	Senate Pensions, Retirement & Aging	Date:	June 30, 2008
Introduced by:	Rep. J. Harrell	Summary by:	Theresa Matula
Version:	Second Edition		Committee Staff

SUMMARY: *House Bill 2451 amends the Elkin Firemen's Supplemental Retirement Fund to provide that the benefit is payable to volunteer firemen and to increase the monthly benefit from \$1.00 to \$2.00 for each full year of service; the bill also repeals the Burlington Firemen's Supplemental Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund.*

CURRENT LAW:

S.L. 1971-391 required the Board of Trustees of the Local Firemen's Relief Fund of the Town of Elkin to establish the Elkin Firemen's Supplemental Retirement Fund. Benefits are paid to each active fireman of the Town who retired subsequent to January 1, 1969, and attained the age of 55 with 30 or more years of service as a town fireman. The retirement benefit is equal to \$1.00 for each full year of service as a fireman.

S.L. 1969-321, as amended by S.L. 1979-1144 and S.L. 1987-612, required the Board of Trustees of the Local Firemen's Relief Fund of the City of Burlington to create and maintain the Burlington Firemen's Supplemental Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund.

Article 84 of Chapter 58 of the General Statutes pertains to the handling of funds derived from insurance companies. G.S. 58-84-25 pertains to the disbursement of funds by the Insurance Commissioner; G.S. 84-30 specifies the appointment of trustees and the organization of firefighters' relief funds. G.S. 58-84-35 grants the board of trustees the authority to disburse funds for specified purposes. G.S. 58-84-40 requires trustees to keep account and file certified reports; G.S. 58-84-46 requires the filing of certificates of eligibility with the Commissioner; and G.S. 58-84-55 prohibits discrimination based upon race in the payment of benefits.

BILL ANALYSIS:

Section 1 of House Bill 2451 amends Section 3(a) of S.L. 1971-391 pertaining to the Elkin Firemen's Supplemental Retirement Fund. The bill inserts the word "volunteer" before each reference to fireman, which makes the Supplemental Retirement benefit payable to volunteer firemen. This section also increases the monthly supplemental retirement benefit from \$1.00 to \$2.00 for each full year of service as a volunteer fireman.

Section 2 of the bill repeals Burlington Fireman's Supplemental Retirement which was established by S.L. 1969-321, and amended by S.L. 1979-1144 and S.L. 1987-612.

Section 3 specifies that all funds remaining in the Burlington Firemen's Supplemental Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Burlington, to be held and administered in accordance with Article 84 of Chapter 58.

EFFECTIVE DATE:

Section 1, pertaining to the Elkin Firemen's Supplemental Retirement Fund, becomes effective July 1, 2008 and applies to the payment of benefits on or after that date. The remainder of the bill becomes effective when it becomes law.

H2451e2-SMSH

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 2614

Short Title: Stovall Retirement.

(Local)

Sponsors: Representative Crawford.

Referred to: Local Government II, if favorable, Pensions and Retirement.

May 28, 2008

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE TOWN OF STOVALL TO PARTICIPATE IN THE
2 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM WITHOUT
3 PROVIDING PRIOR SERVICE CREDITS TO ITS EMPLOYEES.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Notwithstanding any other provision of law, if the Town of
7 Stovall becomes a member of the Local Governmental Employees' Retirement System,
8 the town council may elect to provide no prior service credit in the Retirement System
9 for employees employed prior to the date that the town becomes a participating
10 employer in the Retirement System, and no prior service credit will be given for
11 employees of the town for service provided to the town prior to its participation in the
12 Retirement System, nor shall the town be required to pay for any prior service credits
13 for its employees.

14 **SECTION 2.** This act applies only to the Town of Stovall.

15 **SECTION 3.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 2773

Short Title: Retirement Technical Corrections.

(Public)

Sponsors: Representatives Bell, J. Harrell (Primary Sponsors); and Coleman.

Referred to: Pensions and Retirement.

May 29, 2008

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE STATUTES
2 GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
3 SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE
4 RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES'
5 RETIREMENT SYSTEM, AND THE FIREMEN'S AND RESCUE SQUAD
6 WORKERS' PENSION FUND.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 135-18.7(d) reads as rewritten:

10 "(d) This subsection applies to distributions made on or after January 1, 1993.
11 Notwithstanding any other provision of the Plan to the contrary that would otherwise
12 limit a distributee's election under this Article, a distributee may elect, at the time and in
13 the manner prescribed by the Plan administrator, to have any portion of an eligible
14 rollover distribution paid directly to an eligible retirement plan specified by the
15 distributee in a direct rollover. Provided, an eligible rollover distribution is any
16 distribution of all or any portion of the balance to the credit of the distributee, except
17 that an eligible rollover distribution does not include: any distribution that is one of a
18 series of substantially equal periodic payments (not less frequently than annually) made
19 for the life (or life expectancy) of the distributee or the joint lives (or joint life
20 expectancies) of the distributee and the distributee's designated beneficiary, or for a
21 specified period of 10 years or more; any distribution to the extent such distribution is
22 required under section 401(a)(9) of the Code; and the portion of any distribution that is
23 not includible in gross income (determined without regard to the exclusion for net
24 realized appreciation with respect to employer securities). Effective as of January 1,
25 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
26 fail to be an eligible rollover distribution merely because the portion consists of
27 after-tax employee contributions which are not includible in gross income. However,
28 such portion may be transferred only to an individual retirement account or annuity
29 described in Section 408(a) or (b) of the Code, or to a qualified defined contribution

1 plan described in Section 401(a) or 403(a) of the Code that agrees to separately account
2 for amounts so transferred, including separately accounting for the portion of such
3 distribution which is includible in gross income and the portion of such distribution
4 which is not so includible. Provided, an eligible retirement plan is an individual
5 retirement account described in section 408(a) of the Code, an individual retirement
6 annuity described in section 408(b) of the Code, an annuity plan described in section
7 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
8 accepts the distributee's eligible rollover distribution. Effective on and after January 1,
9 2002, an eligible retirement plan shall also mean an annuity contract described in
10 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
11 is maintained by a state, political subdivision of a state, or any agency or instrumentality
12 of a state or political subdivision of a state and which agrees to separately account for
13 amounts transferred into such plan from this Plan. The definition of eligible retirement
14 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
15 former spouse who is the alternate payee under a qualified domestic relations order, as
16 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
17 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
18 includes an employee or former employee. Provided further, a direct rollover is a
19 payment by the Plan to the eligible retirement plan specified by the distributee.
20 Effective on and after January 1, 2007, notwithstanding any other provision of this
21 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in
22 the manner prescribed by the administrator of the Board of Trustees of this Retirement
23 System, to directly roll over any portion of the beneficiary's distribution from the
24 Retirement System; however, such rollover shall conform with the provisions of section
25 402(c)(11) of the Code."

26 **SECTION 2.** G.S. 135-74(d) reads as rewritten:

27 "(d) This subsection applies to distributions made on or after January 1, 1993.
28 Notwithstanding any other provision of the Plan to the contrary that would otherwise
29 limit a distributee's election under this Article, a distributee may elect, at the time and in
30 the manner prescribed by the Plan administrator, to have any portion of an eligible
31 rollover distribution paid directly to an eligible retirement plan specified by the
32 distributee in a direct rollover. Provided, an eligible rollover distribution is any
33 distribution of all or any portion of the balance to the credit of the distributee, except
34 that an eligible rollover distribution does not include: any distribution that is one of a
35 series of substantially equal periodic payments (not less frequently than annually) made
36 for the life (or life expectancy) of the distributee or the joint lives (or joint life
37 expectancies) of the distributee and the distributee's designated beneficiary, or for a
38 specified period of 10 years or more; any distribution to the extent such distribution is
39 required under section 401(a)(9) of the Code; and the portion of any distribution that is
40 not includible in gross income (determined without regard to the exclusion for net
41 realized appreciation with respect to employer securities). Effective as of January 1,
42 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
43 fail to be an eligible rollover distribution merely because the portion consists of
44 after-tax employee contributions which are not includible in gross income. However,

1 such portion may be transferred only to an individual retirement account or annuity
2 described in Section 408(a) or (b) of the Code, or to a qualified defined contribution
3 plan described in Section 401(a) or 403(a) of the Code that agrees to separately account
4 for amounts so transferred, including separately accounting for the portion of such
5 distribution which is includible in gross income and the portion of such distribution
6 which is not so includible. Provided, an eligible retirement plan is an individual
7 retirement account described in section 408(a) of the Code, an individual retirement
8 annuity described in section 408(b) of the Code, an annuity plan described in section
9 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
10 accepts the distributee's eligible rollover distribution. Effective on and after January 1,
11 2002, an eligible retirement plan shall also mean an annuity contract described in
12 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
13 is maintained by a state, political subdivision of a state, or any agency or instrumentality
14 of a state or political subdivision of a state and which agrees to separately account for
15 amounts transferred into such plan from this Plan. The definition of eligible retirement
16 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
17 former spouse who is the alternate payee under a qualified domestic relations order, as
18 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
19 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
20 includes an employee or former employee. Provided further, a direct rollover is a
21 payment by the Plan to the eligible retirement plan specified by the distributee.
22 Effective on and after January 1, 2007, notwithstanding any other provision of this
23 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in
24 the manner prescribed by the administrator of the Board of Trustees of this Retirement
25 System, to directly roll over any portion of the beneficiary's distribution from the
26 Retirement System; however, such rollover shall conform with the provisions of section
27 402(c)(11) of the Code."

28 **SECTION 3.** G.S. 120-4.31(d) reads as rewritten:

29 "(d) This subsection applies to distributions made on or after January 1, 1993.
30 Notwithstanding any other provision of the Plan to the contrary that would otherwise
31 limit a distributee's election under this Article, a distributee may elect, at the time and in
32 the manner prescribed by the Plan administrator, to have any portion of an eligible
33 rollover distribution paid directly to an eligible retirement plan specified by the
34 distributee in a direct rollover. Provided, an eligible rollover distribution is any
35 distribution of all or any portion of the balance to the credit of the distributee, except
36 that an eligible rollover distribution does not include: any distribution that is one of a
37 series of substantially equal periodic payments (not less frequently than annually) made
38 for the life (or life expectancy) of the distributee or the joint lives (or joint life
39 expectancies) of the distributee and the distributee's designated beneficiary, or for a
40 specified period of 10 years or more; any distribution to the extent such distribution is
41 required under section 401(a)(9) of the Code; and the portion of any distribution that is
42 not includible in gross income (determined without regard to the exclusion for net
43 realized appreciation with respect to employer securities). Effective as of January 1,
44 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not

1 fail to be an eligible rollover distribution merely because the portion consists of
2 after-tax employee contributions that are not includible in gross income. However, such
3 portion may be transferred only to an individual retirement account or annuity described
4 in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan
5 described in Section 401(a) or 403(a) of the Code that agrees to separately account for
6 amounts so transferred, including separately accounting for the portion of such
7 distribution which is includible in gross income and the portion of such distribution
8 which is not so includible. Provided, an eligible retirement plan is an individual
9 retirement account described in section 408(a) of the Code, an individual retirement
10 annuity described in section 408(b) of the Code, an annuity plan described in section
11 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
12 accepts the distributee's eligible rollover distribution. Effective on and after January 1,
13 2002, an eligible retirement plan shall also mean an annuity contract described in
14 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
15 is maintained by a state, political subdivision of a state, or any agency or instrumentality
16 of a state or political subdivision of a state and which agrees to separately account for
17 amounts transferred into such plan from this Plan. The definition of eligible retirement
18 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
19 former spouse who is the alternate payee under a qualified domestic relations order, as
20 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
21 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
22 includes an employee or former employee. Provided further, a direct rollover is a
23 payment by the Plan to the eligible retirement plan specified by the distributee.
24 Effective on and after January 1, 2007, notwithstanding any other provision of this
25 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in
26 the manner prescribed by the administrator of the Board of Trustees of this Retirement
27 System, to directly roll over any portion of the beneficiary's distribution from the
28 Retirement System; however, such rollover shall conform with the provisions of section
29 402(c)(11) of the Code."

30 **SECTION 4.** G.S. 128-38.2(d) reads as rewritten:

31 "(d) This subsection applies to distributions made on or after January 1, 1993.
32 Notwithstanding any other provision of the Plan to the contrary that would otherwise
33 limit a distributee's election under this Article, a distributee may elect, at the time and in
34 the manner prescribed by the Plan administrator, to have any portion of an eligible
35 rollover distribution paid directly to an eligible retirement plan specified by the
36 distributee in a direct rollover. Provided, an eligible rollover distribution is any
37 distribution of all or any portion of the balance to the credit of the distributee, except
38 that an eligible rollover distribution does not include: any distribution that is one of a
39 series of substantially equal periodic payments (not less frequently than annually) made
40 for the life (or life expectancy) of the distributee or the joint lives (or joint life
41 expectancies) of the distributee and the distributee's designated beneficiary, or for a
42 specified period of 10 years or more; any distribution to the extent such distribution is
43 required under section 401(a)(9) of the Code; and the portion of any distribution that is
44 not includible in gross income (determined without regard to the exclusion for net

1 realized appreciation with respect to employer securities). Effective as of January 1,
2 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
3 fail to be an eligible rollover distribution merely because the portion consists of
4 after-tax employee contributions which are not includible in gross income. However,
5 such portion may be transferred only to an individual retirement account or annuity
6 described in Section 408(a) or (b) of the Code, or to a qualified defined contribution
7 plan described in Section 401(a) or 403(a) of the Code that agrees to separately account
8 for amounts so transferred, including separately accounting for the portion of such
9 distribution which is includible in gross income and the portion of such distribution
10 which is not so includible. Provided, an eligible retirement plan is an individual
11 retirement account described in section 408(a) of the Code, an individual retirement
12 annuity described in section 408(b) of the Code, an annuity plan described in section
13 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
14 accepts the distributee's eligible rollover distribution. Effective on and after January 1,
15 2002, an eligible retirement plan shall also mean an annuity contract described in
16 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
17 is maintained by a state, political subdivision of a state, or any agency or instrumentality
18 of a state or political subdivision of a state and which agrees to separately account for
19 amounts transferred into such plan from this Plan. The definition of eligible retirement
20 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
21 former spouse who is the alternate payee under a qualified domestic relations order, as
22 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
23 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
24 includes an employee or former employee. Provided further, a direct rollover is a
25 payment by the Plan to the eligible retirement plan specified by the distributee.
26 Effective on and after January 1, 2007, notwithstanding any other provision of this
27 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in
28 the manner prescribed by the administrator of the Board of Trustees of this Retirement
29 System, to directly roll over any portion of the beneficiary's distribution from the
30 Retirement System; however, such rollover shall conform with the provisions of section
31 402(c)(11) of the Code."

32 **SECTION 5.** G.S. 128-21(11) reads as rewritten:

33 "(11) "Employer" shall mean any county, incorporated city or town, the
34 board of alcoholic control of any county or incorporated city or town,
35 the North Carolina League of Municipalities, and the State Association
36 of County Commissioners. "Employer" shall also mean any separate,
37 juristic political subdivision of the State as may be approved by the
38 Board of Trustees upon the advice of the Attorney General.
39 ~~"Employer" also means any fire department that serves a city or county~~
40 ~~or any part of a city or county and that is supported in whole or in part~~
41 ~~by municipal or county funds."~~

42 **SECTION 6.** G.S. 58-86-25 reads as rewritten:

43 "§ 58-86-25. "Eligible firemen" defined; determination and certification of
44 volunteers meeting qualifications.

1 "Eligible firemen" shall mean all firemen of the State of North Carolina or any
2 political subdivision thereof, including those performing such functions in the
3 protection of life and property through fire fighting within a county or city
4 governmental unit and so certified to the Commissioner of Insurance by the governing
5 body thereof, and who belong to a bona fide fire department which, as determined by
6 the Commissioner, is classified as not less than class "9" or class "A" and "AA"
7 departments in accordance with rating methods, schedules, classifications, underwriting
8 rules, bylaws or regulations effective or applied with respect to the establishment of
9 rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter or by
10 such other reasonable methods as the Commissioner may determine, and which operates
11 fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and
12 said fire department holds drills and meetings not less than four hours monthly and said
13 firemen attend at least 36 hours of all drills and meetings in each calendar year.
14 "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as
15 fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county,
16 provided the board of county commissioners of that county certifies the employee's
17 attendance at no less than 36 hours of all drills and meetings in each calendar year.
18 "Eligible firemen" shall also mean those persons meeting the other qualifications of this
19 section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per
20 100 population in the area served by their respective departments. Each department
21 shall annually determine and report the names of those firemen meeting the eligibility
22 qualifications of this section to its respective governing body, which upon determination
23 of the validity and accuracy of the qualification shall promptly certify the list to the
24 North Carolina State Firemen's Association. The Firemen's Association shall provide a
25 list of those persons meeting the eligibility requirements of this section to the State
26 Treasurer by ~~July 1~~ January 31 of each year. For the purposes of the preceding sentence,
27 the governing body of a fire department operated: by a county is the county board of
28 commissioners; by a city is the city council; by a sanitary district is the sanitary district
29 board; by a corporation, whether profit or nonprofit, is the corporation's board of
30 directors; and by any other entity is that group designated by the board."

31 **SECTION 7.** G.S. 58-86-30 reads as rewritten:

32 **"§ 58-86-30. "Eligible rescue squad worker" defined; determination and**
33 **certification of eligibility.**

34 "Eligible rescue squad worker" means a person who is a member of a rescue or
35 emergency medical services squad that is eligible for membership in the North Carolina
36 Association of Rescue and Emergency Medical Services, Inc., and who has attended a
37 minimum of 36 hours of training and meetings in the last calendar year. Each rescue or
38 emergency medical services squad eligible for membership in the North Carolina
39 Association of Rescue and Emergency Medical Services, Inc., must file a roster
40 certified by the secretary of the association of those rescue or emergency medical
41 services squad workers meeting the requirements of this section with the State Treasurer
42 by ~~January 1~~ January 31 of each calendar year.

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

4 **SECTION 8.** G.S. 58-86-35 reads as rewritten:

5 **"§ 58-86-35. Firemen's application for membership in fund; monthly payments by**
6 **members; payments credited to separate accounts of members;**
7 **termination of membership.**

8 Those firemen who are eligible pursuant to G.S. 58-86-25 may make application for
9 membership to the board. Each fireman upon becoming a member of the fund shall pay
10 the director of the fund the sum of ten dollars (\$10.00) per ~~month.~~ month; each payment
11 shall be made no later than 90 days after the end of the calendar year in which the
12 month occurred. The monthly payments shall be credited to the separate account of the
13 member and shall be kept by the custodian so it is available for payment on withdrawal
14 from membership or retirement.

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

19 **SECTION 9.** G.S. 58-86-40 reads as rewritten:

20 **"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly**
21 **payments by members; payments credited to separate accounts of**
22 **members; termination of membership.**

23 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the
24 board for membership. Each eligible rescue squad worker upon becoming a member
25 shall pay the director of the fund the sum of ten dollars (\$10.00) per ~~month.~~ month; each
26 payment shall be made no later than 90 days after the end of the calendar year in which
27 the month occurred. The monthly payments shall be credited to the separate account of
28 the member and shall be kept by the custodian so it is available for payment on
29 withdrawal from membership or retirement.

30 A member may elect to terminate membership in the fund at anytime and request the
31 refund of payments previously made to the fund. However, a member's delinquency in
32 making the monthly payments required by this section does not result in the termination
33 of membership without such an election by the member."

34 **SECTION 10.** G.S. 58-86-45(b) reads as rewritten:

35 "(b) An eligible fireman or rescue squad worker who is not yet 35 years old ~~and~~
36 ~~has not previously elected to become a member~~ may apply to the board of trustees for
37 membership in the fund at any time. Upon becoming a member, the worker ~~must~~ may
38 make a lump sum payment of ten dollars (\$10.00) per month retroactively to the time
39 the worker first became eligible to become a member, plus interest at an annual rate to
40 be set by the board for each year of retroactive payments. Upon making this lump sum
41 payment, the worker shall be given credit for all prior service in the same manner as if
42 the worker had applied for membership upon first becoming eligible.

43 A member who is not yet 35 years old, ~~who applied for membership after first~~
44 ~~becoming eligible, and who did not receive credit for prior service~~ old may receive

1 credit for the prior service upon making a lump sum payment of ten dollars (\$10.00) for
2 each month since the worker first became eligible, plus interest at an annual rate to be
3 set by the board for each year of retroactive payments. Upon making this lump sum
4 payment, the date of membership shall be the same as if the worker had applied for
5 membership upon first becoming eligible."

6 **SECTION 11.** G.S. 58-86-50 is repealed.

7 **SECTION 12.** G.S. 58-86-60 reads as rewritten:

8 **"§ 58-86-60. Payments in lump sums.**

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

- 10 (1) To any fireman or rescue squad worker upon the attaining of the age of
11 55 years, who, for any reason, is not qualified to receive the monthly
12 retirement pension and who was enrolled as a member of the fund, an
13 amount equal to the amount paid into the fund by him. This provision
14 shall not be construed to preclude any active fireman or rescue squad
15 worker from completing the requisite number of years of active service
16 after attaining the age of 55 years necessary to entitle him to the
17 pension.
- 18 (2) If any fireman or rescue squad worker dies before attaining the age at
19 which a pension is payable to him under the provisions of this Article,
20 there shall be paid to his widow, or if there be no widow, to the person
21 responsible for his child or children, or if there be no widow or
22 children, then to his heirs at law as may be determined by the board or
23 to his estate, if it is administered and there are no heirs, an amount
24 equal to the amount paid into the ~~fund~~ member's separate account by
25 or on behalf of the said fireman or rescue squad worker.
- 26 (3) If any fireman or rescue squad worker dies after beginning to receive
27 the pension payable to him by this Article, and before receiving an
28 amount equal to the amount paid into the fund by him, there shall be
29 paid to his widow, or if there be no widow, then to the person
30 responsible for his child or children, or if there be no widow or
31 children, then to his heirs at law as may be determined by the board or
32 to his estate, if it is administered and there are no heirs, an amount
33 equal to the difference between the amount paid into the ~~fund~~
34 member's separate account by or on behalf of the said fireman or
35 rescue squad worker and the amount received by him as a pensioner.
- 36 (4) Any member withdrawing from the fund shall, upon proper
37 application, be paid all moneys the individual contributed to the fund
38 without accumulated earnings on the payments after the time they
39 were ~~made less an administrative fee equal to the lesser of the amount~~
40 ~~the individual contributed to the fund or twenty five dollars (\$25.00).~~
41 ~~The administrative fees collected by the fund shall be retained by the~~
42 ~~Board to defray administrative expenses, including salaries. made.~~
43 Notwithstanding the foregoing, if any person, firm, corporation, or
44 other entity has made contributions on behalf of a member and that

1 member withdraws from the fund, the person, firm, corporation, or
2 other entity shall be entitled to a refund equal to the amount of
3 contributions made by them after the Board has been notified of the
4 contributor's desire to be refunded its contributions upon the member's
5 withdrawal. ~~Any refunds to a contributor other than a member shall~~
6 ~~also be subject to the twenty five dollar (\$25.00) administrative fee. If~~
7 ~~a refund is to be shared by a member and another party the~~
8 ~~administrative fee shall be applied to each portion on a pro rata basis."~~

9 **SECTION 13.** This act becomes effective July 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S

1

SENATE RESOLUTION 1927

Sponsors: Senator Cowell.

Referred to: Pensions, Retirement & Aging.

May 22, 2008

1 A SENATE RESOLUTION PROVIDING FOR THE CONFIRMATION OF
2 APPOINTMENTS MADE BY THE GOVERNOR TO THE BOARD OF
3 TRUSTEES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM.

5 Whereas, the provisions of G.S. 135-6 require that appointees to the Board of
6 Trustees of the Teachers' and State Employees' Retirement System be confirmed by the
7 Senate of North Carolina; and

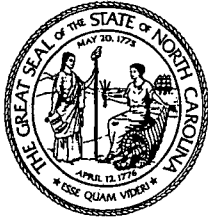
8 Whereas, the Governor has submitted to the presiding officer of the Senate
9 the names of his appointees; Now, therefore,
10 Be it resolved by the Senate:

11 **SECTION 1.** The appointment of Shirley East Harris to the Board of
12 Trustees of the North Carolina Teachers' and State Employees' Retirement System for a
13 term to expire March 31, 2011, is confirmed.

14 **SECTION 2.** The appointment of Joyce H. Elliott to the Board of Trustees
15 of the North Carolina Teachers' and State Employees' Retirement System for a term to
16 expire June 30, 2011, is confirmed.

17 **SECTION 3.** The appointments of Mark Roberts, Harold T. Keen, and
18 Paschal W. Swann to the Board of Trustees of the North Carolina Teachers' and State
19 Employees' Retirement System for terms to expire March 31, 2012, are confirmed.

20 **SECTION 4.** This resolution is effective upon adoption.



SENATE RESOLUTION 1927: Retirement Board Confirmation

BILL ANALYSIS

Committee:	Senate Pensions, Retirement & Aging	Date:	June 30, 2008
Introduced by:	Sen. Cowell	Summary by:	Theresa Matula Committee Staff
Version:	First Edition		

SUMMARY: *Senate Resolution 1927 would confirm five appointments made by the Governor to the Board of Trustees of the Teachers' and State Employees' Retirement System.*

BILL ANALYSIS:

Section 1 of Senate Resolution 1927 confirms the appointment of Shirley East Harris to the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS) for a term to expire March 31, 2011.

Section 2 of the resolution confirms the appointment of Joyce H. Elliott to the TSERS Board of Trustees for a term to expire June 30, 2011.

Section 3 of the resolution confirms the appointments of the following individuals to the TSERS Board of Trustees for terms to expire March 31, 2012:

Mark Roberts
Harld T, Keen
Paschal W. Swann

EFFECTIVE DATE:

The resolution is effective upon adoption.

S1927e1-SMSH

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS, RETIREMENT & AGING COMMITTEE REPORT

Senator Linda Garrou, Co-Chair
Senator Walter H. Dalton, Co-Chair
Senator Kay R. Hagan, Co-Chair

Tuesday, July 08, 2008

Senator GARROU,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE
BILL**

S.B.	1661	Registers of Deeds' Pension.	
		Draft Number:	PCS 55768
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

H.B.	2728	Supplemental Retirement Board of Trustees.	
		Draft Number:	PCS51045
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

MINUTES

SENATE COMMITTEE
ON
PENSIONS, RETIREMENT & AGING

Tuesday, July 8, 2008

9:30 A.M.

Room 643, Legislative Office Building

Senator Walter Dalton, Co-Chair, Presiding

The Senate Committee on Pensions, Retirement & Aging met on Tuesday, July 8, 2008 at 9:30 A.M. Senator Walter Dalton Co-Chair. There were twelve members present.

Senator Dalton called the meeting to order, welcomed everyone, and introduced the Sergeant-At-Arms staff and acknowledged Pages.

Proposed Committee Substitute to Senate Bill 1661 – An Act to Adjust The Limit On The Monthly Pension Amount Payable From The Registers Of Deeds’ Supplemental Pension Fund. (Please see Section 1 of the proposed committee substitute that was rewritten).

- *Section 1 of this act shall not apply to any member who retired between July 1, 2007 and July 1, 2008.*
- *Section 3: This act becomes effective July 1, 2008.*

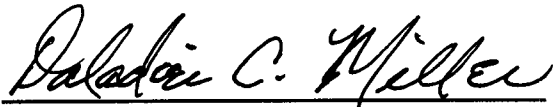
House Bill 2728 – consolidates the Board of Trustees for the North Carolina Public Employee Deferred Compensation Plan and the Board of Trustees for the Supplemental Retirement Income Plan into the Supplemental Retirement Board of Trustees, and provides for a transitional Board from July 1, 2008 to June 30, 2009. The proposed committee substitute introduced by Senator Janet Cowell adds a section pertaining to compensation for the Chief Investment Officer and Investment Directors. (Please see attachment for details).

- *The long titled of the committee substitute is amended. (Please see attached copy of the proposed committee substitute bill).*
- *Effective Date of Sections 1 through 3 of the bill becomes effective July 1, 2009. The remainder of the bill would become effective July 1, 2008, which is retroactive. (Please see attached Summary for details).*

Action Taken: Senator Stevens moved for an unfavorable report to the original bill, and a favorable report to the Senate Committee Substitute Bill. *The motion carried by unanimous voice vote.*

Having no further business, the meeting adjourned.

Senator Walter Dalton, Co-Chair



Daladier C. Miller, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE BILL 1661
PROPOSED COMMITTEE SUBSTITUTE S1661-PCS55768-LL-48

Short Title: Registers of Deeds' Pension.

(Public)

Sponsors:

Referred to:

May 20, 2008

A BILL TO BE ENTITLED

1 AN ACT TO ADJUST THE LIMIT ON THE MONTHLY PENSION AMOUNT
2 PAYABLE FROM THE REGISTERS OF DEEDS' SUPPLEMENTAL PENSION
3 FUND.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 161-50.5(a) reads as rewritten:

7 "(a) An eligible retired register of deeds shall be entitled to receive an annual
8 pension benefit, payable in equal monthly installments, equal to one share for each full
9 year of eligible service as register of deeds multiplied by his total number of years of
10 eligible service. The amount of each share shall be determined by dividing the total
11 number of years of eligible service for all eligible retired registers of deeds on
12 December 31 of each calendar year into the amount to be disbursed as monthly pension
13 payments in accordance with the provisions of G.S. 161-50.3. In no event, however,
14 shall a monthly pension under this Article exceed an amount which, when added to a
15 retirement allowance at retirement from the Local Governmental Employees'
16 Retirement System or an equivalent locally sponsored plan, is greater than seventy-five
17 percent (75%) of a register of deed's equivalent annual salary immediately preceding
18 retirement computed on the latest monthly rate, including any and all supplements, to a
19 maximum amount of one thousand five hundred dollars (\$1,500)."

20 **SECTION 2.** Section 1 of this act shall not apply to any member who retired
21 between July 1, 2007, and July 1, 2008.

22 **SECTION 3.** This act becomes effective July 1, 2008, and applies to pension
23 amounts payable on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S

1

SENATE BILL 1661

Short Title: Registers of Deeds' Pension.

(Public)

Sponsors: Senator Rand.

Referred to: Pensions, Retirement & Aging.

May 20, 2008

A BILL TO BE ENTITLED

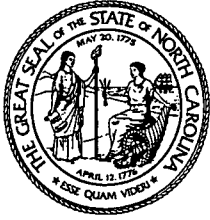
1 AN ACT TO ADJUST THE LIMIT ON THE MONTHLY PENSION AMOUNT
2 PAYABLE FROM THE REGISTERS OF DEEDS' SUPPLEMENTAL PENSION
3 FUND.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 161-50.5(a) reads as rewritten:

7 "(a) An eligible retired register of deeds shall be entitled to receive an annual
8 pension benefit, payable in equal monthly installments, equal to one share for each full
9 year of eligible service as register of deeds multiplied by his total number of years of
10 eligible service. The amount of each share shall be determined by dividing the total
11 number of years of eligible service for all eligible retired registers of deeds on
12 December 31 of each calendar year into the amount to be disbursed as monthly pension
13 payments in accordance with the provisions of G.S. 161-50.3. In no event, however,
14 shall a monthly pension under this Article exceed an amount which, when added to a
15 retirement allowance at retirement from the Local Governmental Employees'
16 Retirement System or an equivalent locally sponsored plan, is greater than seventy-five
17 percent (75%) of a register of deed's equivalent annual salary immediately preceding
18 retirement computed on the latest monthly rate, including any and all supplements, to a
19 maximum amount of one thousand five hundred dollars (\$1,500)."

20 **SECTION 2.** This act becomes effective July 1, 2008, and applies to pension
21 amounts payable on or after that date.



SENATE BILL 1661: Registers of Deeds' Pension

BILL ANALYSIS

Committee:	Senate Pensions, Retirement & Aging	Date:	June 30, 2008
Introduced by:	Sen. Rand	Summary by:	Theresa Matula Committee Staff
Version:	PCS to First Edition S1661-CSLL-48		

SUMMARY: *Senate Bill 1661 changes the limit on the Registers of Deeds' Supplemental Pension Fund monthly pension amount. The Proposed Committee Substitute adds language to specify that the act does not apply to any member who retired between July 1, 2007 and July 1, 2008.*

CURRENT LAW:

Article 3 of Chapter 161 provides for the Registers of Deeds' Supplemental Pension Fund with a stated purpose of supplementing local government retirement benefits in order to attract the most highly qualified talent within the State to the position of register of deeds. The Article outlines the purpose, scope, assets, disbursements, eligibility, and benefits of the pension fund.

G.S. 161-50.5(a) specifies the pension benefit for an eligible retired register of deeds. The pension benefit is payable in equal monthly installments, equal to one share for each full year of eligible service as register of deeds multiplied by total years of eligible service. The amount of each share is determined by dividing the total number of years of eligible service for all eligible retired registers of deeds on December 31 of each calendar year into the amount to be disbursed as a monthly pension. The current law provides that in no event can a monthly pension exceed 75% of a register of deed's equivalent annual salary immediately preceding retirement. The salary immediately preceding retirement is computed on the latest monthly rate, including any and all supplements, to a maximum amount of \$1,500.

BILL ANALYSIS:

Section 1 of Senate Bill 1661 amends G.S. 161-50.5(a) to adjust the limit on the monthly pension payable to an eligible retired register of deeds. Under the bill the monthly pension must not exceed an amount which, when added to a retirement allowance at retirement from the Local Governmental Employees' Retirement system, or an equivalent locally sponsored plan, is greater than 75% of a register of deed's equivalent annually salary immediately preceding retirement.

Section 2 of the PCS specifies that Section 1 does not apply to any member who retired between July 1, 2007 and July 1, 2008.

EFFECTIVE DATE:

The act would become effective July 1, 2008, and applies to pension amounts payable on or after that date.

S1661e1-SMSH-CSLL-48

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

D

HOUSE BILL 2728

PROPOSED SENATE COMMITTEE SUBSTITUTE H2728-PCS51045-LB-115

Short Title: Supplemental Retirement Bd. Trustees/Inv Emp.

(Public)

Sponsors:

Referred to:

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE THE BOARD OF TRUSTEES FOR THE NORTH CAROLINA 401(K) PLAN AND THE BOARD OF TRUSTEES OF THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN INTO THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES, AND CONCERNING COMPENSATION OF EMPLOYEES IN THE INVESTMENT DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-91(a) reads as rewritten:

"(a) The provisions of this Article shall be administered by the Department of State Treasurer and ~~a Board of Trustees consisting of the Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System.~~ the Supplemental Retirement Board of Trustees established in G.S. 135-96. The Department of State Treasurer and the Board of Trustees shall create a Supplemental Retirement Income Plan as of January 1, 1985, to be administered under the provisions of this Article."

SECTION 2. Article 5 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-96. Supplemental Retirement Board of Trustees.

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under G.S. 143B-426.24.

(b) The Board consists of nine voting members, as follows:

(1) Six persons appointed by the Governor who have experience in finance and investments, one of whom shall be a State employee;

(2) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;

1 (3) One person appointed by the General Assembly upon the
2 recommendation of the President Pro Tempore of the Senate; and

3 (4) The State Treasurer, ex officio, who shall be the Chair.

4 (c) The initial appointments by the General Assembly and two of the Governor's
5 initial appointments shall be for one-year terms. The remainder of the initial
6 appointments shall be for two-year terms. At the expiration of these initial terms,
7 appointments shall be for two years and shall be made by the appointing authorities
8 designated in subsection (b) of this section. A member shall continue to serve until the
9 member's successor is duly appointed, but a holdover under this provision does not
10 affect the expiration date of the succeeding term. No member of the Board may serve
11 more than three consecutive two-year terms.

12 (d) Other than ex officio members, members appointed by the Governor shall
13 serve at the Governor's pleasure. An ex officio member may designate in writing, filed
14 with the Board, any employee of the member's department to act at any meeting of the
15 Board from which the member is absent, to the same extent that the member could act if
16 present in person at such meeting."

17 SECTION 3. G.S. 143B-426.24 reads as rewritten:

18 "**§ 143B-426.24. ~~Board of Trustees of the North Carolina Public Employee~~**
19 **~~Deferred Compensation Plan.~~**

20 (a) The Governor may, by Executive Order, establish a Board of Trustees of the
21 North Carolina Public Employee Deferred Compensation Plan, which when established
22 shall be constituted an agency of the State of North Carolina within the Department of
23 State Treasurer. The Board shall create, establish, implement, coordinate and administer
24 a Deferred Compensation Plan for employees of the State, any county or municipality,
25 the North Carolina Community College System, and any political subdivision of the
26 State. Until so established, the Board heretofore established pursuant to Executive Order
27 XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore
28 established shall continue until a new plan is established. Effective July 1, 2008, the
29 Plan shall be administered by the Supplemental Retirement Board of Trustees
30 established under G.S. 135-96.

31 ~~(b) The Board shall consist of seven voting members, as follows:~~

32 ~~(1) Three persons shall be appointed by the Governor who shall have~~
33 ~~experience with taxation, finance and investments, one of whom shall~~
34 ~~be a State employee;~~

35 ~~(2) One member shall be appointed by the General Assembly upon~~
36 ~~recommendation of the Speaker of the House of Representatives under~~
37 ~~G.S. 120-121;~~

38 ~~(3) One member shall be appointed by the General Assembly upon~~
39 ~~recommendation of the President Pro Tempore of the Senate under~~
40 ~~G.S. 120-121;~~

41 ~~(4) The Secretary of Administration, ex officio; and~~

42 ~~(5) The State Treasurer, ex officio, chairman.~~

43 ~~(c) General Assembly appointments shall serve two year terms. A member shall~~
44 ~~continue to serve until his successor is duly appointed but a holdover under this~~

1 ~~provision does not affect the expiration date of the succeeding term. No member of the~~
2 ~~Board may serve more than three consecutive two year terms.~~

3 ~~(d) In case of a vacancy on the Board before the expiration of a member's term, a~~
4 ~~successor shall be appointed within 30 days of the vacancy for the remainder of the~~
5 ~~unexpired term by the appropriate official pursuant to subsection (b). Vacancies in~~
6 ~~legislative appointments shall be filled under G.S. 120-122.~~

7 ~~(e) Other than ex officio members, members appointed by the Governor shall~~
8 ~~serve at his pleasure.~~

9 ~~(f) Any ex officio member may designate in writing, filed with the Board, any~~
10 ~~employee of his department to act at any meeting of the Board from which the member~~
11 ~~is absent, to the same extent that the member could act if present in person at such~~
12 ~~meeting.~~

13 (g) It shall be the duty of the Supplemental Retirement Board when established to
14 review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2
15 and Executive Order XII to include, but not be limited to, such contracts, agreements or
16 arrangements pertaining to the administrative services and the investment of deferred
17 funds under the Plan for the purpose of recommending continuation of or changes to
18 such contracts, agreements or arrangements.

19 (h) It shall be the duty of the Supplemental Retirement Board to devise a uniform
20 Deferred Compensation Plan for teachers and employees, which shall include a
21 reasonable number of options to the teacher or employee, for the investment of deferred
22 funds, among which may be life insurance, fixed or variable annuities and retirement
23 income contracts, regulated investment trusts, pooled investment funds managed by the
24 Board or its designee, or other forms of investment approved by the Board, always in
25 such form as will assure the desired tax treatment of such funds. The Board may alter,
26 revise and modify the Plan from time to time to improve the Plan or to conform to and
27 comply with requirements of State and federal laws and regulations relating to the
28 deferral of compensation of teachers and public employees generally.

29 (h1) Notwithstanding any other law, an employee of any county or municipality,
30 an employee of the North Carolina Community College System, or an employee of any
31 political subdivision of the State may participate in any 457 Plan adopted by the State,
32 with the consent of the Supplemental Retirement Board and with the consent of the
33 proper governing authority of such county, municipality, community college, or
34 political subdivision of the State where such employee is employed.

35 (i) The Supplemental Retirement Board is authorized to delegate the
36 performance of such of its administrative duties as it deems appropriate including
37 coordination, administration, and marketing of the Plan to teachers and employees. Prior
38 to entering into any contract with respect to such administrative duties, it shall seek
39 bids, hold public hearings and in general take such steps as are calculated by the Board
40 to obtain competent, efficient and worthy services for the performance of such
41 administrative duties.

42 (j) The Supplemental Retirement Board may acquire investment vehicles from
43 any company duly authorized to conduct such business in this State or may establish,
44 alter, amend and modify, to the extent it deems necessary or desirable, a trust for the

1 purpose of facilitating the administration, investment and maintenance of assets
2 acquired by the investment of deferred funds. All assets of the Plan, including all
3 deferred amounts, property and rights purchased with deferred amounts, and all income
4 attributed thereto shall be held in trust for the exclusive benefit of the Plan participants
5 and their beneficiaries.

6 ~~(k) Members of the Board, who are not officers or employees of the State, shall
7 receive per diem and necessary travel and subsistence in accordance with the provisions
8 of G.S. 138-5, funded as provided in subsection (m) hereof.~~

9 ~~(l) All clerical and other services and personnel required by the Board shall be
10 supplied by the Department of State Treasurer, funded as provided in subsection (m)
11 hereof.~~

12 (m) Investment of deferred funds shall not be unreasonably delayed, and in no
13 case shall the investment of deferred funds be delayed more than 30 days. The
14 Supplemental Retirement Board may accumulate such funds pending investment, and
15 the interest earned on such funds pending investment shall be available to and may be
16 spent in the discretion of the Board only for the reasonable and necessary expenses of
17 the Board. The State Treasurer is authorized to prescribe guidelines for the expenditure
18 of such funds by the Board. From time to time as the Board may direct, funds not
19 required for such expenses may be used to defray administrative expenses and fees
20 which would otherwise be required to be borne by teachers and employees who are then
21 participating in the Plan.

22 ~~(n) A majority of the Board shall constitute a quorum for the transaction of
23 business.~~

24 (o) It is intended that the provisions of this Part shall be liberally construed to
25 accomplish the purposes provided for herein."

26 **SECTION 4.** Notwithstanding the provisions of G.S. 135-91,
27 G.S. 143B-426.24, or any other provision of law, effective from July 1, 2008, through
28 June 30, 2009, the North Carolina 401(k) Plan and the North Carolina Public Employee
29 Deferred Compensation Plan shall be administered by a transitional Board of Trustees.
30 The transitional Board of Trustees shall consist of nine members, as follows:

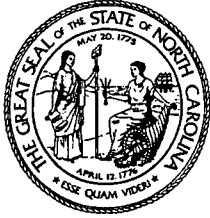
- 31 (1) The two members of the Board of Trustees of the North Carolina
32 401(k) Plan who serve by virtue of their appointment to the Board of
33 Trustees of the Teachers' and State Employees' Retirement System by
34 the General Assembly pursuant to G.S. 135-6(b)(4);
- 35 (2) The two members of the Board of Trustees of the North Carolina
36 Deferred Compensation Plan appointed by the General Assembly
37 pursuant to G.S. 143B-426.24(2) and (3);
- 38 (3) Two of the members of the Board of Trustees of the North Carolina
39 401(k) Plan who serve by virtue of their appointment to the Board of
40 Trustees of the Teachers' and State Employees' Retirement System by
41 the Governor pursuant to G.S. 135-6(b)(3), to be determined by the
42 Governor;

1 (4) Two of the members of the Board of Trustees of the North Carolina
2 Deferred Compensation Plan appointed by the Governor pursuant to
3 G.S. 143B-426.24(1), to be determined by the Governor;

4 (5) The State Treasurer, ex officio, who shall serve as Chair.

5 **SECTION 5.** In order to retain key public employees in the Investment
6 Division, the State Treasurer is authorized to establish compensation including bonuses
7 for the Chief Investment Officer and Investment Directors. The bonuses may be based
8 on compensation studies conducted by a nationally recognized firm specializing in
9 public fund investment compensation and the Pension Plan performance. The salaries
10 and other associated benefits shall be apportioned directly from the investment program.
11 The Treasurer shall report the bonuses paid to the Joint Legislative Commission on
12 Governmental Operations annually.

13 **SECTION 6.** Sections 1 through 3 of this act become effective July 1, 2009.
14 The remainder of this act becomes effective July 1, 2008.



HOUSE BILL 2728: Supplemental Retirement Board of Trustees

BILL ANALYSIS

Committee:	Senate Pensions, Retirement & Aging	Date:	July 8, 2008
Introduced by:	Reps. Bell, J. Harrell	Summary by:	Theresa Matula Committee Staff
Version:	PCS to First Edition H2728-CSLB-115		

SUMMARY: *House Bill 2728 consolidates the Board of Trustees for the North Carolina Public Employee Deferred Compensation Plan and the Board of Trustees for the Supplemental Retirement Income Plan into the Supplemental Retirement Board of Trustees, and provides for a transitional Board from July 1, 2008 to June 30, 2009. The PCS adds a section pertaining to compensation for the Chief Investment Officer and Investment Directors.*

[As introduced, this bill was identical to S2141, as introduced by Sen. Dannelly, which is currently being held as filed.]

CURRENT LAW: G.S. 143B-426.24 provides for the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan which consists of seven voting members. The responsibilities of the Board are to create, establish, implement, coordinate, and administer the North Carolina Public Employee Deferred Compensation Plan for employees of the State, any county or municipality, the North Carolina Community College System, and any political subdivision of the State. Duties also include reviewing all contracts, agreements or arrangements pertaining to administrative services and investment of deferred funds under the Plan. The Board is authorized to delegate the performance of administrative duties as it deems appropriate including coordination, administration, and marketing of the Plan to teachers and employees. Prior to entering into any contract for administrative duties, the Board shall seek bids, hold public hearings, and other such steps as required to obtain competent, efficient and worthy services for the performance of the administrative duties.

- In 2006, the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan was transferred to the Department of State Treasurer from the Department of Administration. (S.L. 2006-66, Section 20.1)

G.S. 135-91 specifies that the Supplemental Retirement Income Plan is administered by the Department of State Treasurer and a Board of Trustees consisting of the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS) and the Board of Trustees of the Local Governmental Employees' Retirement System (LGERS). The Department of State Treasurer and the Board of Trustees has fiduciary responsibility for managing all aspects of the Plan, including the receipt, maintenance, investment and disposition of all Plan assets. Membership in the Plan consists of any member of the following who voluntarily elect to enroll: TSERS, Consolidated Judicial Retirement System, Legislative Retirement System, LGERS, certain law enforcement officers, Optional Retirement Program, retirement and pension plans sponsored by political subdivisions of the State as long as the plan is qualified under Section 401(a) of the IRC.

BILL ANALYSIS: Section 2 of House Bill 2728 adds a new section to Chapter 135, Article 5, Supplemental Retirement Income Act of 1984. The new section, G.S. 135-96, consolidates two Boards of Trustees into the Supplemental Retirement Board of Trustees to administer both the Supplemental Retirement Income Plan and the North Carolina Public Employee Deferred Compensation Plan. The newly created Board will consist of nine (9) voting members, appointed as follows:

House Bill 2728

Page 2

- Six (6) individuals with experience in finance and investments, one of whom must be a State employee, appointed by the Governor.
- One (1) individual appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.
- One (1) individual appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.
- The State Treasurer as an ex officio member and who will serve as Chair.

In order to provide for staggering of the terms, the initial appointments by the General Assembly, and two of the Governor's initial appointments, are for one-year terms. The remaining initial appointments are for two-year terms. After these initial appointments, members serve for two-year terms. No member of the Board may serve more than three consecutive two-year terms. Members appointed by the Governor serve at the Governor's pleasure.

Section 1 makes a conforming change to G.S. 135-91(a) to replace the references to the Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System with the Supplemental Retirement Board of Trustees, established in G.S. 135-96.

Section 3 of the bill makes a conforming change to G.S. 143B-426.24 to delete the provisions for the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan and specify that effective July 1, 2008, the Plan will be administered by the Supplemental Retirement Board of Trustees, established in G.S. 135-96.

Section 4 of the bill provides that from July 1, 2008, through June 30, 2009, the North Carolina 401(k) Plan and the North Carolina Public Employee Deferred Compensation Plan will be administered by a transitional Board of Trustees. The transitional Board consists of nine (9) members appointed as follows:

- Two (2) members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of Trustees of the Teachers' and State Employees' Retirement System by the General Assembly pursuant to G.S. 135-6(b)(4).
- Two (2) members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the General Assembly pursuant to G.S. 143B-426.24(2) and (3).
- Two (2) members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of Trustees of the Teachers' and State Employees' Retirement System by the Governor pursuant to G.S. 135-6(b)(3), to be determined by the Governor.
- Two (2) members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the Governor pursuant to G.S. 143B-426.24(1), to be determined by the Governor.
- The State Treasurer, ex officio, who shall serve as Chair.

Section 5 of the PCS authorizes the State Treasurer to establish compensation, including bonuses, for the Chief Investment Officer and the Investment Directors. The PCS allows the bonuses to be based on compensation studies conducted by a nationally recognized firm specializing in public fund investment compensation and the Pension Plan performance. The PCS also specifies that the salaries and other benefits must be apportioned from the investment program. The Treasurer is required to annually report to the Joint Legislative Commission on Governmental Operations on the bonuses paid.

EFFECTIVE DATE: Sections 1 through 3 of the bill become effective July 1, 2009. The remainder of the bill would become effective July 1, 2008, which is now retroactive.

H2728e1-SMSH-CSLB-115

VISITOR REGISTRATION SHEET

Pension + Retirement

Name of Committee

070808

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Anders	PFFPWC
Suzanne Beasley Mahysz	SEANC
Mary Forman	NCAE
Ardis Watkins	SEANC
Jinda Darter	NCAE
Montego	NMRS
Flora McKelhin	NMRS
Kim Hargrove	ROD
Penny Guffin	IOG
Dennis Patterson	OSC

VISITOR REGISTRATION SHEET

Pensions + Retirement

Name of Committee

070808

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ed Regan	NCRGEA
Pam Heardoff	NCRSP
Stana Huggins	NC Dept. of State Treasurer
PATRICIA GERRICK	NC Dept of State Treasurer
Michael Williamson	D
David Vanderweide	"
Ellen Richardson	"
Ashley Clark	"
Laura Holt	Sen. Corwell

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS, RETIREMENT & AGING COMMITTEE REPORT

**Senator Linda Garrou, Co-Chair
Senator Walter H. Dalton, Co-Chair
Senator Kay R. Hagan, Co-Chair**

Wednesday, July 16, 2008

Senator GARROU,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2) 1563	Extend Fire and Rescue Death Benefits.	
	Sequential Referral:	None
	Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comments:

SENATE PENSIONS, RETIREMENT & AGING COMMITTEE

Wednesday, July 16, 2008

11:45 a.m.

Senate Chamber

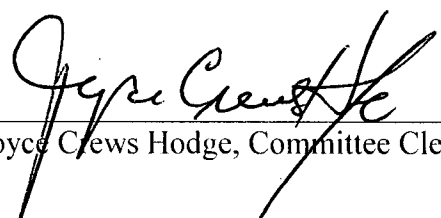
MINUTES

The Senate Pensions, Retirement & Aging Committee met at 11:45 a.m. on July 16, 2008, around Senator Garrou's Desk in the Senate Chamber. Nineteen members of the committee were present. Senator Garrou presided. House Committee Substitute #2 for House Bill 1563, Extend Fire and Rescue Death Benefits, was before the Committee for consideration. Mr. Stanley Moore, Fiscal Research Division, was recognized to give an explanation of the bill. He also shared correspondence from the State Treasurer's Office, Retirement Systems Division. Senator Malone moved a favorable report for House Committee Substitute #2 for House Bill 1563. The motion passed by unanimous voice vote.

A copy of the Actuarial Note is included with these minutes as Attachment 1.

The meeting adjourned at 11:55 a.m.

Senator Linda Garrou, Presiding



Joyce Crews Hodge, Committee Clerk

Senate Pensions, Retirement & Aging Committee
Wednesday, July 16, 2008
11:45 a.m.
Senate Chamber

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 1563 Extend Fire and Rescue Death Benefits. Representative Holliman

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

3

HOUSE BILL 1563

Committee Substitute Favorable 7/25/07

Committee Substitute #2 Favorable 7/10/08

Short Title: Extend Fire and Rescue Death Benefits.

(Public)

Sponsors:

Referred to:

April 18, 2007

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE LINE-OF-DUTY DEATH BENEFITS TO FIRE AND
2 RESCUE INSTRUCTORS WHO ARE OTHERWISE ELIGIBLE FOR THESE
3 BENEFITS BUT WHO ARE NOT CURRENTLY COVERED WHILE
4 CONDUCTING FIRE AND RESCUE TRAINING OUTSIDE THEIR OWN
5 DEPARTMENTS.
6

7 The General Assembly of North Carolina enacts:

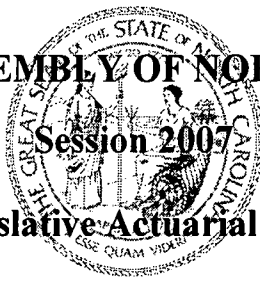
8 SECTION 1. G.S. 143-166.2(d) reads as rewritten:

9 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a
10 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
12 thereof, whether paid or unpaid; and all full-time custodial employees and probation and
13 parole officers of the North Carolina Department of Correction; and all full time
14 institutional and full-time, permanent part-time, and temporary detention employees of
15 the Department of Juvenile Justice and Delinquency Prevention and full-time,
16 permanent part-time, and temporary detention officers employed by any sheriff, county
17 or municipality, whether paid or unpaid. The term "firemen" shall mean both "~~eligible~~
18 ~~fireman~~"; or "~~fireman~~" "eligible firemen" as defined in G.S. 58-86-25 and all full-time,
19 permanent part-time and temporary employees of the North Carolina Division of Forest
20 Resources, Department of Environment and Natural Resources, during the time they are
21 actively engaged in fire-fighting activities; and shall mean all full-time employees of the
22 North Carolina Department of Insurance during the time they are actively engaged in
23 fire-fighting activities, during the time they are training fire fighters or rescue squad
24 workers; and during the time they are engaged in activities as members of the State
25 Emergency Response Team, when the Team has been ~~activated~~ activated; and shall
26 mean all otherwise eligible persons who, while actively engaged as firefighters or
27 rescue squad workers, are acting in the capacity of a fire or rescue instructor outside
28 their own department or squad. The term "rescue squad worker" shall mean a person

1 who is dedicated to the purpose of alleviating human suffering and assisting anyone
2 who is in difficulty or who is injured or becomes suddenly ill by providing the proper
3 and efficient care or emergency medical services. In addition, this person must belong
4 to an organized rescue squad which is eligible for membership in the North Carolina
5 Association of Rescue Squads, Inc., and the person must have attended a minimum of
6 36 hours of training and meetings in the last calendar year. Each rescue squad belonging
7 to the North Carolina Association of Rescue Squads, Inc., must file a roster of those
8 members meeting the above requirements with the State Treasurer on or about January
9 1 of each year, and this roster must be certified to by the secretary of said association. In
10 addition, the term "rescue squad worker" shall mean a member of an ambulance service
11 certified by the Department of Health and Human Services pursuant to Article 7 of
12 Chapter 131E of the General Statutes. The Department of Health and Human Services
13 shall furnish a list of ambulance service members to the State Treasurer on or about
14 January 1 of each year. The term "Civil Air Patrol members" shall mean those senior
15 members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and
16 currently certified pursuant to G.S. 143B-491(a). The term "fireman" shall also mean
17 county fire marshals when engaged in the performance of their county duties. The term
18 "rescue squad worker" shall also mean county emergency services coordinators when
19 engaged in the performance of their county duties."

20 **SECTION 2.** This act becomes effective June 1, 2008, and applies to
21 workers' compensation claims arising from injuries occurring on or after that date and to
22 death benefits awarded on or after that date under Article 12A of Chapter 143 of the
23 General Statutes.

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Actuarial Note

RETIREMENT

BILL NUMBER: House Bill 1563 (Third Edition)
SHORT TITLE: Extend Fire and Rescue Death Benefits.
SPONSOR(S): Representative Holliman .

FUNDS AFFECTED: General Fund

SYSTEM OR PROGRAM AFFECTED: Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefit Act

EFFECTIVE DATE: June 1, 2008

BILL SUMMARY: Amends definition of eligible unit in GS 58-87-10(a) to include members of any eligible unit who are otherwise eligible for benefits but are conducting fire and rescue training "to another eligible unit." Amends definition of fireman in GS 143-166.2(d) to include "all otherwise eligible persons acting in the capacity of a fire or rescue instructor."

ESTIMATED IMPACT ON STATE: There is no data available indicating the number of eligible covered persons who provide training outside their own department or squad, but the General Assembly's actuary, Hartman & Associates, does not expect this change to create a significant cost.

The Retirement System's actuary, Buck Consultants, made no estimate of the cost for this change.

ASSUMPTIONS AND METHODOLOGY: This Death Benefit is funded from the General Fund on a pay-as-you-go basis on a year-to-year. The experience over 30 years is as follows:

**\$50,000 Death Benefit for Law Enforcement Officers,
 Firemen Rescue Squad Workers, Civil Air Patrol
 Members & State Forestry Employees
 (G. S. 143, Article 12A)**

<u>Fiscal Year</u>	<u>Beginning Claims Payable</u>	<u>New Claims</u>		<u>Total Claims Payable</u>	<u>Ending Claims Paid</u>	<u>Claims Payable</u>
		<u>No.</u>	<u>Amount</u>			
75-76	160,000	25	325,000	485,000	265,000	220,000
76-77	220,000	18	242,500	462,500	262,500	200,000
77-78	200,000	22	250,000	450,000	225,000	225,000
78-79	225,000	14	345,000	570,000	307,150	262,850
79-80	262,850	11	275,000	537,850	332,850	205,000

<u>Fiscal Year</u>	<u>Beginning Claims Payable</u>	<u>New Claims No.</u>	<u>New Claims Amount</u>	<u>Total Claims Payable</u>	<u>Ending Claims Paid</u>	<u>Claims Payable</u>
80-81	205,000	7	175,000	380,000	250,000	130,000
81-82	130,000	9	225,000	355,000	255,350	99,650
82-83	99,650	3	75,000	174,650	84,650	90,000
83-84	90,000	5.5	137,500	227,500	147,500	80,000
84-85	80,000	7.2	180,000	260,000	145,000	115,000
85-86	115,000	9	225,000	340,000	235,000	105,000
86-87	105,000	9	225,000	330,000	195,000	135,000
87-88	135,000	6	150,000	285,000	180,000	105,000
88-89	105,000	5	125,000	230,000	115,000	115,000
89-90	115,000	3	75,000	190,000	110,000	80,000
90-91	80,000	3	75,000	155,000	80,000	75,000
91-92	75,000	9	225,000	300,000	165,000	135,000
92-93	135,000	8	200,000	335,000	180,000	155,000
93-94	155,000	6	150,000	305,000	200,000	105,000
94-95	105,000	5	125,000	230,000	140,000	90,000
95-96	90,000	7	175,000	265,000	150,000	115,000
96-97	115,000	6	150,000	265,000	160,000	105,000
97-98	105,000	4	100,000	205,000	100,000	105,000
98-99	105,000	9	225,000	330,000	120,000	210,000
99-00	210,000	12	300,000	510,000	250,000	260,000
00-01	260,000	7	175,000	435,000	210,000	225,000
01-02	225,000	6	150,000	375,000	180,000	195,000
02-03	195,000	12	300,000	495,000	270,000	225,000
03-04	225,000	14	550,000	775,000	370,000	405,000
04-05	405,000	8	400,000	805,000	385,000	420,000
05-06	375,000	7	280,000	700,000	325,000	375,000
06-07	375,000	12	600,000	975,000	490,000	485,000
07-08	485,000	13	625,000	1,110,000	500,000	610,000

2005-06 Estimated Coverage

Law Officers (State & Local Gov't.)	21,227
Firemen (Paid & Volunteer)	48,970
Rescue Squad Workers	23,653
Correctional Custody Officers	12,412
Probation Officers	1,275
Forest Firefighters	725
CAP Senior Members	854
Dept. of Insurance Employees	27
TOTAL	109,143

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stanley Moore

APPROVED BY:

Lynn Muchmore, Director
Fiscal Research Division

DATE: July 15, 2008



Signed Copy Located in the NCGA Principal Clerk's Offices



July 9, 2008

Mr. Garry Austin
State of North Carolina
Department of State Treasurer
Retirement Systems Division
325 North Salisbury Street
Raleigh, NC 27603-1385

Re: Committee Substitute - House Bill 1563

Dear Mr. Austin:

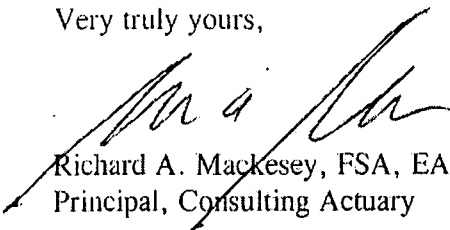
We have received Mr. David Vanderweide's email of July 9 regarding the Committee Substitute for House Bill 1563, which affects the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act described in G.S. 143-166.3.

This proposed legislation amends G.S. 143-166.2(d) and appears to provide line-of-duty death benefits to fire or rescue instructors who die in the line of duty and are providing instruction outside their own department or squad.

Based on the data you provided, there has only been one death in the last 10 years of a fire or rescue instructor (although it is not clear if this instructor was providing instruction outside their own department or squad). However, we are not the actuaries for the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act and have not determined a cost for this change.

If you have any questions or need additional assistance, please let us know.

Very truly yours,



Richard A. Mackesey, FSA, EA, MAAA
Principal, Consulting Actuary

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14911 Quorum Drive, Suite 200 • Dallas, TX 75254-7534
972.628.6800 • 972.628.6801 (fax)

HARTMAN & ASSOCIATES, LLC

ACTUARIAL CONSULTING

MARK V. HARTMAN, FSA, MAAA, MCA, EA

hartman@triad.rr.com

Phone: (336) 731-4038

Fax: (336) 731-2583

668 Link Road
Lexington, NC 27295

July 5, 2008

Mr. Stanley Moore
Fiscal Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, NC 27603-5925

Re: House Bill 1563 Proposed Committee Substitute: An Act to Provide
Fire and Rescue Death Benefits to Instructors Providing Training
Outside Their Own Department

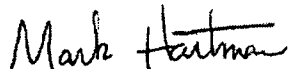
Dear Mr. Moore:

This committee substitute to the bill would amend G.S. 143-166.2(d) to extend the line-of-duty death benefit to otherwise eligible fire and rescue instructors who are conducting training outside their own department or squad. The line-of-duty death benefit is \$50,000. This act is effective June 1, 2008 and applies to death benefits awarded on or after that date.

We do not have data on the number of members who provide training that would be covered by this extension. However, we do not expect this change to create a significant cost.

If you have any questions, let me know.

Sincerely,



Mark V. Hartman, FSA, MAAA, FCA, EA
Consulting Actuary

MVH/mt

VISITOR REGISTRATION SHEET

SENATE PENSIONS, RETIREMENT & AGING COMMITTEE July 7, 2008
Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Katherine Joyce	NCA SA
Kim Hargrove	Register of Deeds - Harnett
John McHugh	Gov office
Stavla Huggins	NC Dept. State Treas.
Pentymyn	SC
Joel Maynard	" "
Ed Reyer	NCRGEA
Sam Leary	WMRS
Norm Kellian	Nelson Mullis
DANIEL BAUM	K + L GATES
Ardis Watkins	SEANC

