

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 459
SENATE BILL 293

AN ACT TO CREATE AND ESTABLISH THE MORGANTON FIREMEN'S
SUPPLEMENTAL RETIREMENT SYSTEM FOR THE UNIFORMED AND
VOLUNTEER FIREMEN OF THE FIRE DEPARTMENT OF THE TOWN OF
MORGANTON.

The General Assembly of North Carolina do enact:

Section 1. There is hereby created and established a supplemental retirement system for the uniformed and volunteer members of the Fire Department of the Town of Morganton to be known as the "Morganton Firemen's Supplemental Retirement System," hereinafter referred to in this Act as "supplemental retirement system." The purpose of the creation and establishment of the supplemental retirement system, as provided for in this Act, shall be to increase, augment and add to the retirement income by the uniformed and volunteer firemen of the Town of Morganton who have already retired and who may hereafter retire in the sums and amounts hereinafter provided under this Act.

Sec. 2. The general administration and responsibility for the proper operation of the supplemental retirement system herein created and established and for the carrying out and making effective the provisions of this Act are hereby vested in a board of trustees who shall be chosen and selected as follows:

(a) Two members of said board of trustees shall be chosen from the membership of the Morganton Fire Department and shall be elected by a majority vote of the uniformed and volunteer members of the Fire Department of the Town of Morganton; one of said members shall hold office for a period of one (1) year, and the other member so appointed shall hold office for a period of two (2) years; thereafter, each of said two members chosen from the Morganton Fire Department shall be appointed for a term of office consisting of a period of two (2) years each.

(b) Two members shall be appointed by the Town Council of Morganton; one of said members shall hold office for a period of one (1) year, the other member so appointed shall hold office for a period of two (2) years; and thereafter, each of said members shall be appointed for a term of office consisting of a period of two (2) years.

(c) One member of said board of trustees is to be a member of the Morganton Town Council and shall be elected for a term of two (2) years by a majority vote of the Town Council of the Town of Morganton.

All members of the board of trustees shall be elected or appointed as specified in Section 2 (a), (b) and (c) prior to the third Tuesday in May. They shall take

office on the third Tuesday in May. Any member of said board of trustees shall be eligible to succeed himself or herself and all vacancies occurring in the membership of the board of trustees by death, resignation, disqualification or otherwise shall be filled by a special election for the members elected in Section 2 (a) and (c), to fill the unexpired term, and likewise by special appointment under Section 2 (b).

(d) The board of trustees shall be organized immediately after the trustees provided for in this Section shall have qualified and taken the oath of office. The board of trustees shall be a body politic and corporate under the name of the Board of Trustees of Morganton Firemen's Supplemental Retirement System, and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive and demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, alien, or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof and shall not be subject to income taxes.

(e) The board of trustees may purchase with funds received under and by virtue of their office, municipal bonds of the Town of Morganton, bonds of the State of North Carolina, United States Government, or certificate of deposit of paid shares of Building or Saving and Loan Associations not exceeding the amount guaranteed by the Federal Government.

(f) Compensation of Trustees. The members of the Board of Trustees of the Morganton Firemen's Supplemental Retirement System shall serve without compensation, but they shall be reimbursed for all necessary expenses incurred through service upon said board.

(g) Each trustee shall, within ten (10) days after his appointment, take an oath of office before the mayor that, so far as it devolves upon him, he will diligently and honestly administer the affairs of said board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the city clerk.

(h) Meetings. The board of trustees shall hold semi-annual meetings at such time and place as the board may determine. In addition thereto, the chairman or vice-chairman of the board of trustees may call special meetings and upon request of two members of the board of trustees in writing, shall call a special meeting of the board of trustees. When so called, the secretary shall give notice in person or by special delivery mail to all members of the board at least 24 hours prior to such meeting, specifying the purpose of such meeting and time and place. The business of the special meeting shall be limited to the purpose as set forth in the notice.

(i) Voting Rights. Each trustee shall be entitled to one vote. A majority vote shall be necessary for a decision by the trustees at any meeting of said board and the chairman shall only vote in case of a tie.

(j) The chairman shall preside at all meetings and in his absence the vice-chairman shall preside.

(k) Officers. The Chairman, Vice-Chairman, Secretary and the Treasurer of the Morganton Firemen's Supplemental Retirement System shall be elected by the board of trustees from the membership of the board at the first regular quarterly meeting in each year.

(l) Rules and Regulations. Subject to the limitations of this Act, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this Act, and for the transaction of its business. The board of trustees shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices and inequalities, which might arise in the administration of this Act.

(m) Evaluation. The secretary shall keep in convenient form, at a place designated by the trustees, such data as shall be necessary for evaluating the system and for checking the expense of the system.

(n) Record of Proceedings. Annual Report. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish at the end of each fiscal year a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash of the system, and the last balance sheet, showing the financial condition of the system, including the valuation of the assets and liabilities of the retirement system. A copy of such annual report shall be provided for each of the fire stations in the Town of Morganton. The term "Fiscal Year", as used in this Act, shall be defined to mean a period of time from July 1st to June 30th, inclusive.

(o) Custodian of Funds. Disbursements. Bond of Treasurer. The treasurer shall handle all funds. The treasurer shall furnish such bond as shall be required by the board of trustees. He shall be custodian of all funds paid into the Morganton Firemen's Supplemental Retirement System and shall deposit said funds in a bank or banks designated by the board of trustees. The premium for said bond shall be paid out of the funds of the system. All payments from such funds shall be made by him only upon voucher signed by two persons designated by the board of trustees. The books of the system shall be audited each two (2) years and when a new treasurer is elected by a certified public accountant, and said report shall be presented at the first regular quarterly meeting of each year.

(p) Liabilities of Trustees. No member of the board of trustees shall be personally liable by reason of his service as a trustee for any acts performed by him as a trustee, except for malfeasance in office.

(q) Trustee Member Disqualified. In the event any uniformed or volunteer member shall make application for benefits under this Act, and shall at such time be serving as a member of the board of trustees, he shall first disqualify himself and his vacancy shall be filled before the board of trustees receives such application.

Sec. 3. There is hereby created and established in the Morganton Firemen's Supplemental Retirement System a fund to be known as the "Supplemental Retirement Fund" and hereinafter referred to as the "fund". The fund shall consist of all moneys and funds paid into the system from the Firemen's Relief Fund of the Town of Morganton

from time to time and as provided by law; all gifts of money, property of all kinds and description, all moneys, funds or property transferred to the fund by will, devise, bequest or by other means provided by law for the transfer or devolution of property, donations and gifts made by the firemen of the Town of Morganton, investments, earnings or investments, interest, dividends and any other funds or property that may accrue to the fund, and the board of trustees is authorized to accept gifts, devises and bequests, and any property or funds that may in anywise be transferred in operation of law. The moneys and property of the fund may be invested by the board of trustees as heretofore provided in this Act. Refunds may be made from the fund to anyone entitled thereby by reason of clerical mistake or any clerical error or inadvertence. The fund shall be liable for the payment of the supplemental benefits hereinafter referred to and defined. Any donations made to the Morganton Fire Department in excess of the amount of one hundred dollars (\$100.00) may be given and transferred to the fund by a majority vote of the members of the Morganton Fire Department. The fund shall be liable for all reasonable and necessary expenses of administration as shall be determined by the board of trustees.

Sec. 4. Eligibility for Supplemental Benefits. A uniformed fireman shall be eligible to receive supplemental benefits from this fund at the time of his retirement as an active employee of the town under Morganton's Employees Retirement Fund, including disability retirement as provided in said retirement system. All volunteer firemen of the Morganton Fire Department shall be eligible to receive supplemental benefits upon reaching the age of 65 years and who have retired from their regular work and earn less than one thousand two hundred dollars (\$1,200.00) per year. For the purpose of this Section "supplemental benefit" as used herein shall be defined to mean any sum of money payable by the fund to a fireman of the Morganton Fire Department who becomes eligible for said benefits as hereinbefore set forth.

All firemen of the Morganton Fire Department upon becoming eligible to receive supplemental benefits shall receive a minimum supplemental benefit of twenty-five dollars (\$25.00) per month, except that the total amount paid all retired members of the Morganton Fire Department shall not exceed eighty per cent (80%) of the income received by the fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources. In the event that eighty per cent (80%) of the income above mentioned is insufficient to pay such minimum of twenty-five dollars (\$25.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Morganton Fire Department. Each retired fireman receiving supplemental benefit in accordance with this Act shall receive the same amount of supplemental benefit per month; provided, that the maximum payment to any retired members of the Morganton Fire Department, as herein provided, together with any part of said eighty per cent (80%) which is not paid out during the next fiscal year, shall become a part of said fund and may be invested as provided in this Act. Should any fireman die, subsequent to the payment of a supplemental benefit for any preceding month and prior to the payment of any supplemental benefit in the month in which such fireman dies, then such supplemental benefit for that month shall be paid to the deceased fireman's personal

representative. The board of trustees shall have the authority and power to promulgate rules and regulations to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought.

Sec. 5. The provisions of Section 4 of this Act shall not become effective as to the payment of any supplemental benefits thereunder until on or about July 1, 1964.

Sec. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 7. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1963.