

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1840
Second Edition Engrossed 6/7/89

Short Title: Winston-Salem Firemen's Fund.

(Local)

Sponsors: Representative Duncan.

Referred to: Pensions and Retirement.

May 9, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE WINSTON-SALEM
3 FIREMEN'S FUND ASSOCIATION.

4 The General Assembly of North Carolina enacts:

5 Section 1. Section 2(b) of Chapter 388, 1973 Session Laws, as rewritten by
6 Chapter 508, 1987 Session Laws, reads as rewritten:

7 "(b) As of July 1, 1987, and thereafter, any person not covered under (a) above
8 who shall have been regularly and continuously employed full time by the Fire
9 Department of the City of Winston-Salem (hereinafter referred to as the Fire
10 Department), including any Fire Department mechanic or electrician, who shall have
11 attained his 18th birthday and shall not have attained his 40th birthday. Any person not
12 covered under (a) above who was hired by the Fire Department prior to July 1, 1987,
13 and continues to be employed by the Fire Department on such date, and who had
14 attained his 30th birthday when hired but had not then attained his 40th birthday, may
15 elect within 90 days following July 1, 1987, to become a member by contributing to the
16 Association the sum of twelve dollars (\$12.00) per month from his date of hire by the
17 Fire Department, plus interest at the rate of ~~seven percent (7%)~~ eight percent (8%),
18 applicable to any payments made on and after July 1, 1989, per annum, computed on the
19 amount accrued as of the end of each fiscal year of the Association."

20 Sec. 2. Section 16 of Chapter 388, 1973 Session Laws, as rewritten by
21 Chapter 508, 1987 Session Laws, reads as rewritten:

22 "Sec. 16. (a) Notwithstanding the provisions of subsection (b) immediately
23 following, if a person who shall not be a member of the Association shall be transferred

1 to the employment of the Fire Department from the employment of the City of Winston-
2 Salem (hereinafter referred to as the City), the following provisions shall apply in
3 determining whether he shall be a member of the Association following such transfer:

- 4 (1) If he shall have attained at least his 18th birthday and shall not have
5 attained his 40th birthday on the date of such transfer, he shall
6 automatically become a member on such date of transfer. In
7 determining such transferred employee's number of years of
8 continuous employment by the City, employment with the City prior
9 to such transfer shall be taken into account only if such employee shall
10 elect to contribute to the Association the amount of twelve dollars
11 (\$12.00) per month from the date of his hire by the City until the date
12 of such transfer, plus interest at the rate of ~~seven percent (7%)~~ eight
13 percent (8%), applicable to any payments made on and after July 1,
14 1989, per annum, computed on the amount accrued as of the end of
15 each fiscal year of the Association.
- 16 (2) If he shall have attained at least his 40th birthday on the date of
17 transfer, but had not attained such birthday when last employed by the
18 City, he may elect within 90 days following such transfer to become a
19 member. If he elects to become a member, he shall contribute to the
20 Association the amount he would have contributed if he had become a
21 member on the day next preceding his 40th birthday. In addition, at
22 the option of such employee, he may further elect to contribute such
23 additional amount as he would have contributed prior to his 40th
24 birthday if his employment with the City had been with the Fire
25 Department. Any such contributions shall include interest at the rate
26 of ~~seven percent (7%)~~ eight percent (8%), applicable to any payments
27 made on and after July 1, 1989, per annum, computed on the amount
28 accrued as of the end of each fiscal year of the Association.
- 29 (3) If he shall have attained at least his 40th birthday when last employed
30 by the City, he shall be ineligible to become a member following such
31 transfer.
- 32 (4) The elections specified in subdivisions (1) and (2) hereof shall be
33 made in writing to the Trustees within 90 days following such transfer,
34 and shall be irrevocable when made (subject to termination of
35 membership upon subsequent separation from employment with the
36 Fire Department). Any contributions (and interest) payable pursuant
37 to such election shall be paid in cash in a lump sum at the time such
38 election shall be filed.

39 (b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon
40 as practicable following April 3, 1979, (but in no event more than 60 days thereafter),
41 the Trustees gave each person who was then employed by the City of Winston-Salem as
42 a Public Safety Officer an election to be a member or not to be a member of the
43 Association. Each such election was to be made in accordance with procedures
44 established by the Trustees and was irrevocable when made (subject to termination of

1 membership upon a subsequent separation from the employment of the City, and subject
2 to the provisions of subsection (a) of this Section 16). If a Public Safety Officer failed
3 to file a timely election, he was deemed to have elected not to be a member. If a Public
4 Safety Officer who was a member on the date of the election elected to discontinue
5 membership (or shall have been deemed to have so elected), within 30 days following
6 such date there should have been refunded to him the full amount of his prior
7 contributions to the Association, if any, without interest. If a Public Safety Officer who
8 failed to make contributions prior to the election date elected to be a member, he shall
9 have within 30 days following such election paid to the Association the full amount he
10 would have contributed if he had made required contributions during the entire period
11 that he was eligible to be a member. Such contributions included interest at the rate of
12 six percent (6%) per annum, computed on the amount accrued as of the end of each
13 fiscal year of the Association.

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

27 (d) In determining the number of years of continuous employment of a member,
28 there shall be taken into account all years for which he shall make contributions in
29 accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes of
30 computing a member's years of continuous employment with the City, any period of
31 unused sick leave with the Fire Department accrued by the member on the date of his
32 retirement shall be deemed to be a period of continuous employment with the Fire
33 Department.

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

40 (f) If a member has been employed by the City continuously for a period of 10
41 years and has any military service, and is not otherwise treated under Section 26 as
42 being in the employment of the City during the period of such military service, the
43 period of such military service shall nevertheless be added to his period of continuous
44 employment with the City upon such member's paying to the Association an amount

1 equal to twelve dollars (\$12.00) for each month of such military service plus interest at
2 the rate of ~~seven percent (7%)~~ eight percent (8%), applicable to any payments made on
3 and after July 1, 1989, per annum, compounded annually. Such military service shall be
4 limited to the initial period of active duty in the armed forces of the United States up to
5 the time the member was first eligible to be separated or released therefrom, and
6 subsequent periods of such active duty as required by the armed forces of the United
7 States up to the date of first eligibility for separation or release therefrom. The member
8 must submit evidence satisfactory to the Trustees of the military service claimed. Such
9 election must be made within one year after the member first becomes eligible to
10 contribute for such military service. Credit for military service under this subsection
11 shall not be considered service creditable under another retirement system for purposes
12 of G.S. 128-26(a).

13 (g) If an individual who is an active participant in the North Carolina Local
14 Governmental Employees' Retirement System (the 'System') shall terminate service
15 with the employer enabling the individual to participate in the System (the 'System
16 Employer'), and shall immediately enter the employment of the Fire Department, he
17 may elect to have his period of service under the System considered as continuous
18 employment with the Fire Department for purposes of this act; provided, that such
19 election shall be permitted only if the individual was under age 40 when he entered the
20 employment of the System Employer. This election shall be made in writing to the
21 Trustees within 90 days of the individual's commencement of employment with the Fire
22 Department (or, with respect to an individual who becomes employed by the Fire
23 Department prior to July 1, 1989, this election shall be made on or before September 30,
24 1989). The election, if made, shall be accompanied by a cash contribution to the
25 Association of an amount equal to twelve dollars (\$12.00) per month during the period
26 of his service under the System, plus interest at the rate of eight percent (8%) per
27 annum, compounded annually on the amount accrued as of the end of each fiscal year of
28 the Association. The election shall be irrevocable when made. If the election is not
29 made in a timely fashion, the right to make the election is forfeited."

30 Sec. 3. Section 18 of Chapter 388, 1973 Session Laws, as rewritten by
31 Chapter 508, 1987 Session Laws, reads as rewritten:

32 "Sec. 18. If at any time there shall not be sufficient assets in the retirement fund of
33 the Association to pay fully the persons entitled to benefits provided herein, such
34 persons shall be paid such benefits on a pro rata basis to the extent the assets of such
35 fund will allow, as shall be determined by the Trustees; provided, that the assets of such
36 fund determined as of the close of any fiscal year of the Association shall in no event be
37 less than ~~one million dollars (\$1,000,000)~~ one million five hundred thousand dollars
38 (\$1,500,000)."

39 Sec. 4. Section 19 of Chapter 388, 1973 Session Laws, as rewritten by
40 Chapter 508, 1987 Session Laws, reads as rewritten:

41 "Sec. 19. Whenever any member of the Association has been employed by the City
42 continuously for a period of at least 30 years, such member may make written
43 application to the trustees for his normal retirement benefit, and whenever any member
44 of the Association has been employed by the City continuously for a period of at least

1 25 years but not more than 30 years, such member may make written application to the
 2 Trustees for his early retirement benefit; provided, however, that such member must
 3 retire from the service of the City to receive such benefits. The normal and early
 4 retirement benefits of such member shall be a monthly pension for the remainder of his
 5 life, as provided hereinbelow. For this purpose and for the purpose of Section 20
 6 hereof, a member shall be deemed to have been employed by the City continuously if
 7 such member shall have been employed continuously by any combination of the Fire
 8 Department or Police Department (but only such employment by the Police Department
 9 as is described in subsection 16(b) and (c) hereof), and the transfer of a member from
 10 the employ of one of such organizations to the employ of the other such organization
 11 shall not be deemed to be a termination of employment by the City. Provided, that if a
 12 member has at least 25 years of employment with the City, but such service is not
 13 continuous solely because of a leave of absence lasting not more than a year and not
 14 described in Section 26, such member shall be deemed to have continuous employment
 15 with the City during such leave of absence; and provided further, that if a member has
 16 less than 25 years of employment with the City but the sum of his years of employment
 17 with the City plus
 18 any leave of absence lasting not more than one year and not described in Section 26,
 19 equals or exceeds 25 years, the period of such leave shall be deemed to be continuous
 20 employment with the City if such member contributes to the Association twelve dollars
 21 (\$12.00) for each month he was on such leave, plus interest at the rate of ~~seven percent~~
 22 ~~(7%)~~ eight percent (8%), applicable to any payments made on and after July 1, 1989, per
 23 annum, computed on the amount accrued as of the end of each fiscal year of the
 24 Association.

25 Effective beginning July 1, 1989, and ending June 30, 1990, the ~~The~~ amount of the
 26 monthly pension for each member who is entitled to receive a normal retirement benefit
 27 and who retires on or after July 1, 1985, shall be one hundred eighty five dollars
 28 ~~(\$185.00)~~(including members who retired prior to July 1, 1989) shall be two hundred
 29 dollars (\$200.00). Effective on and after July 1, 1990, the amount of the monthly
 30 pension for each member who is entitled to receive a normal retirement benefit
 31 (including members who retired prior to this date) shall be two hundred fifteen dollars
 32 (\$215.00). The amount of the monthly pension for each member who is entitled to
 33 receive an early retirement benefit and who retires on and after July 1, 1985, as of any date
 34 shall be the product of (1) and (2), where (1) is the applicable percentage listed in the
 35 following table based on his years of continuous employment at his early retirement
 36 date, and (2) ~~is one hundred eighty five dollars (\$185.00)~~ is the amount of the payment that
 37 he would have received as a normal retirement benefit under this section as of that date:

38 Years of Employment at	Percentage of Normal
39 Retirement Date	Retirement Benefit
40 25	85%
41 26	88%
42 27	91%
43 28	94%
44 29	97%

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

3 Sec. 5. Section 20 of Chapter 388, 1973 Session Laws, as rewritten by
4 Chapter 508, 1987 Session Laws, reads as rewritten:

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

13 ~~In the case of such a member who retires as a disabled member on or after July 1,~~
14 ~~1985, his monthly benefit shall equal seven dollars forty cents (\$7.40) times his years of~~
15 ~~service, but not to exceed one hundred eighty five dollars (\$185.00). For this purpose~~
16 ~~only, years of service shall mean the number of full years of his service in the~~
17 ~~employment of the City. Payments shall be subject to the provisions of Section 18 of~~
18 ~~this act. Effective beginning July 1, 1989, and ending June 30, 1989, the monthly~~
19 ~~benefit of a member who retires as a disabled member (including a member who retired~~
20 ~~as a disabled member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his~~
21 ~~years of service but in no event more than two hundred dollars (\$200.00) per month.~~
22 ~~Effective on and after July 1, 1990, the monthly benefit of a member (including a~~
23 ~~member who retires as a disabled member prior to this date) shall equal eight dollars~~
24 ~~and sixty cents (\$8.60) times his years of service, but in no event more than two~~
25 ~~hundred fifteen dollars (\$215.00) per month. For this purpose only, years of service~~
26 ~~shall mean the number of his earned years of service in the employment of the City (as~~
27 ~~determined pursuant to Section 16(d) of this act). Payments shall be subject to the~~
28 ~~provisions of Section 18 of this act."~~

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

36 Sec. 6. None of the provisions of this act shall create an additional liability
37 for the Winston-Salem Firemen's Fund Association unless sufficient funds are available
38 to pay fully for the liability.

39 Sec. 7. This act shall become effective July 1, 1989.