

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 2065*
Committee Substitute Favorable 6/17/94

Short Title: Charlotte Firefighters' Retirement.

(Local)

Sponsors:

Referred to:

June 6, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CHARLOTTE FIREFIGHTERS' RETIREMENT
3 SYSTEM ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Section 2 of Chapter 926 of the 1947 Session Laws, as rewritten
6 by Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws, and
7 Chapter 248 of the 1989 Session Laws, is amended by adding a new subdivision to read:

8 "(9a) 'Death Benefit Recipient' means any person who is in receipt of
9 benefits payable as specified in Section 21."

10 Sec. 2. Section 4 of Chapter 926 of the 1947 Session Laws, as rewritten by
11 Chapter 506 of the 1987 Session Laws, reads as rewritten:

12 "Sec. 4. Periods of ~~Worker's~~Workers' Compensation & Accident and Sickness
13 Sickness, Family Medical Leave Act, and Long-Term Disability Benefits. Membership
14 Service Credit shall be credited to a Member for any periods of workers' ~~compensation~~
15 ~~and/or compensation,~~ accident and sickness-sickness, Family Medical Leave Act, or
16 long-term disability benefits for which said Member contributes to the Charlotte
17 Firefighters' Retirement System an amount equal to the Compensation the Member
18 would have earned multiplied by the sum of the then current social security contribution
19 rate and five percent (5%). Such contributions must be made within a 12 calendar
20 month period from and after the date the Member returns to employment with the
21 Charlotte Fire Department and prior to the Member's termination of membership or
22 retirement."

1 ♦ Sec. 3. Chapter 926 of the 1947 Session Laws is amended by adding a new
2 section to read:

3 "Sec. 13.1. **Direct Rollover of Eligible Rollover Distributions.** (a) This
4 Section applies to distributions made on or after January 1, 1993. Notwithstanding any
5 provision of the plan to the contrary that would otherwise limit a distributee's election
6 under this Section, a distributee may elect, at the time and in the manner prescribed by
7 the plan administrator, to have any portion of an eligible rollover distribution paid
8 directly to an eligible retirement plan specified by the distributee in a direct rollover.

9 (b) Definitions.

10 (1) Eligible rollover distribution. An eligible rollover distribution is any
11 distribution of all or any portion of the balance to the credit of the
12 distributee, except that an eligible rollover distribution does not
13 include: any distribution that is one of a series of substantially equal
14 periodic payments (not less frequently than annually) made for the life
15 (or life expectancy) of the distributee or the joint lives (or joint life
16 expectancies) of the distributee and the distributee's designated
17 beneficiary, or for a specified period of 10 years or more; any
18 distribution to the extent such distribution is required under section
19 401(a)(9) of the Code; and the portion of any distribution that is not
20 includable in gross income (determined without regard to the exclusion
21 for net unrealized appreciation with respect to employer securities).

22 (2) Eligible retirement plan. An eligible retirement plan is an individual
23 retirement account described in section 408(a) of the Code, an
24 individual retirement annuity described in section 408(b) of the Code,
25 an annuity plan described in section 403(a) of the Code, or a qualified
26 trust described in section 401(a) of the Code, that accepts the
27 distributee's eligible rollover distribution. However, in the case of an
28 eligible rollover distribution to the surviving spouse, an eligible
29 retirement plan is an individual retirement account or individual
30 retirement annuity.

31 (3) Distributee. A distributee includes an employee or former employee.
32 In addition, the employee's or former employee's surviving spouse and
33 the employee's or former employee's spouse or former spouse who is
34 the alternate payee under a qualified domestic relations order, as
35 defined in section 414(p) of the Code, are distributees with regard to
36 the interest of the spouse or former spouse.

37 (4) Direct rollover. A direct rollover is a payment by the plan to the
38 eligible retirement plan specified by the distributee."

39 Sec. 4. Section 19 of Chapter 926 of the 1947 Session Laws, as rewritten by
40 Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws,
41 Chapter 248 of the 1989 Session Laws, and Chapter 830 of the 1991 Session Laws,
42 reads as rewritten:

43 "Sec. 19. **Disability Retirement in the Line of Duty.** (a)An 'Application for
44 Disability Retirement in the Line of Duty' shall be filed by the Member or his

1 department head with the Administrator, provided that the Member has applied for and
2 been granted workers' compensation benefits on account of this disability.

3 (b) An 'Application for Disability Retirement in the Line of Duty' shall be
4 administered pursuant to rules and regulations adopted by the Board of Trustees from
5 time to time and approved by the City of Charlotte and administered in a uniform and
6 nondiscriminatory manner.

7 (c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
8 section, a Member shall receive a monthly benefit equal to seventy-two percent (72%)
9 of his Final Average Salary, but not less than five hundred dollars (\$500.00) per month.
10 Effective July 1, 1987, upon retirement pursuant to the provisions of this section, a
11 Member shall receive a monthly benefit equal to the greater of seventy-two percent
12 (72%) or two and four-tenths percent (2.4%) multiplied by his Membership Service, of
13 his Final Average Salary, not to exceed one hundred percent (100%) of Final Average
14 Salary, but not less than five hundred dollars (\$500.00) per month. Effective July 1,
15 1988, prior to his retirement pursuant to the provisions of this Section, but not
16 thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the
17 effective date of his retirement, of his monthly amount payable throughout his life, and
18 nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent
19 (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The
20 Actuarial Equivalent for all Members retiring pursuant to this Section shall be computed
21 in accordance with the Unisex Mortality Table for 1984 set forward one year in age,
22 with interest at six percent (6%). Benefits payable under this Section shall be effective
23 on the date of approval by the Board of Trustees or upon exhaustion of workers'
24 compensation benefits, whichever is later. Also, disability retirement benefits payable
25 under this Section may be adjusted by the disability retirement regulations adopted
26 pursuant to the requirements contained in subsection (b) of this Section. A Retiree
27 receiving disability retirement benefits shall revert to a service retirement as specified in
28 Section 15 and shall receive the greater of such disability retirement benefits or his
29 Accrued Benefit as determined as of the last date of active employment with the
30 Charlotte Fire Department at such time as the Retiree's attained age and Membership
31 Service Credit meet the requirements for a service retirement."

32 Sec. 5. Section 20 of Chapter 926 of the 1947 Session Laws, as rewritten by
33 Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws,
34 Chapter 248 of the 1989 Session Laws, and Chapter 830 of the 1991 Session Laws,
35 reads as rewritten:

36 "Sec. 20. **Disability Retirement not in the Line of Duty.** (a) An 'Application
37 for Disability Retirement not in the Line of Duty' shall be filed by a Member or his
38 department head with the Administrator, provided that the Member has 10 or more
39 years of Membership Service Credit and has applied for and been granted accident and
40 sickness benefits on account of the disability.

41 (b) An 'Application for Disability Retirement not in the Line of Duty' shall be
42 administered pursuant to rules and regulations adopted by the Board of Trustees from
43 time to time and approved by the City of Charlotte and administered in a uniform and
44 nondiscriminatory manner.

1 (c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
2 section, a Member shall receive a monthly benefit equal to thirty-six percent (36%) of
3 his Final Average Salary, plus one and eight-tenths percent (1.8%) of his Final Average
4 Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed
5 one hundred percent (100%) of his Final Average Salary, but not less than five hundred
6 dollars (\$500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to
7 the provisions of this section, but not thereafter, a Member may elect to receive an
8 Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly
9 amount payable throughout his life, and nominate a Beneficiary in accordance with the
10 provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth
11 in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring
12 pursuant to this section shall be computed in accordance with the Unisex Mortality
13 Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits
14 payable under this section shall be effective on the date of approval by the Board of
15 Trustees. Also, disability retirement benefits payable under this Section may be
16 adjusted by the disability retirement regulations adopted pursuant to the requirements
17 contained in subsection (b) of this Section. A Retiree receiving disability retirement
18 benefits shall revert to a service retirement as specified in Section 15 and shall receive
19 the greater of such disability retirement benefits or his Accrued Benefit as determined as
20 of the last date of active employment with the Charlotte Fire Department at such time as
21 the retiree's attained age and Membership Service Credit meet the requirements for a
22 service retirement."

23 Sec. 6. Section 23 of Chapter 926 of the 1947 Session Laws, as rewritten by
24 Chapter 506 of the 1987 Session Laws and Chapter 248 of the 1989 Session Laws, reads
25 as rewritten:

26 "Sec. 23. **Post-Retirement Adjustments.** (a) The retirement benefits payable
27 to a Retiree pursuant to the provisions of this act may be adjusted at the discretion of the
28 Board of Trustees based upon the prevailing economic and funding conditions. Such
29 adjustment shall not be paid until such adjustment is ratified by the City of Charlotte.

30 (b) Effective July 1, 1989, the Board of Trustees shall make an annual bonus
31 payment in the month of January following an annual actuarial valuation when the
32 actuary determines that the actual payroll contributions exceed the required
33 contributions adjusted for any actuarial gains and losses that may have occurred during
34 the preceding year. The lesser of fifty percent (50%) of the excess amount determined
35 by the actuary or the aggregate monthly benefit of the Retirees eligible for the bonus
36 shall be distributed. A Retiree who has been retired for at least one year as of December
37 31, preceding distribution of the bonus, shall receive a bonus that is determined by the
38 Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly
39 benefits of all Retirees eligible for the bonus.

40 (c) Effective July 1, 1994, the provisions of this Section shall apply to
41 surviving beneficiaries and death benefit recipients receiving benefits from the Charlotte
42 Firefighters' Retirement System."

43 Sec. 7. Section 25 of Chapter 926 of the 1947 Session Laws, as rewritten by
44 Chapter 506 of the 1987 Session Laws, reads as rewritten:

1 "Sec. 25. **City of Charlotte Contributions.** (a) The City of Charlotte shall
2 contribute to the Charlotte Firefighters' Retirement System an amount equal to the
3 Member's Compensation multiplied by the sum of the then current social security
4 contribution rate and five percent (5%), for each and every payroll of such Member.

5 (b) Should any Member of this Retirement System enter the Armed Forces of the
6 United States of America, the City of Charlotte shall contribute to the Charlotte
7 Firefighters' Retirement System for each and every payroll an amount equal to the
8 Compensation such Member would have earned based upon the last pay grade with the
9 Fire Department multiplied by the contribution rate established pursuant to subsection
10 (a) of this section for a period not to exceed the lesser of the Member's actual period of
11 active military duty or five years.

12 (c) Should any Member of the Retirement System enter the Armed Forces of the
13 United States of America, upon approval by the City Council, the City of Charlotte by
14 and on behalf of such Member may contribute an amount equal to, but not to exceed,
15 the Compensation such Member would have earned based upon the last pay grade with
16 the Fire Department multiplied by the contribution rate established pursuant to Section
17 24 of this act. Any contributions by and on behalf of such Member shall inure to the
18 benefit of such Member as though made by such Member under the provisions of this
19 act unless otherwise specified in this act.

20 (c1) Should any Member of the Retirement System contribute an amount pursuant
21 to Section 4 for the purpose of receiving Membership Service Credit for any period of
22 Family Medical Leave Act benefits, the City of Charlotte shall contribute to the
23 Charlotte Firefighters' Retirement System an amount equal to the Compensation that
24 Member would have earned multiplied by the then current social security contribution
25 rate and five percent (5%).

26 (d) In addition thereto, the City Council may, within its discretion and upon the
27 recommendation of the Board of Trustees, appropriate funds necessary to provide a cost
28 of living increase to the Retirees of the System."

29 Sec. 8. Section 29 of Chapter 926 of the 1947 Session Laws, as rewritten by
30 Chapter 506 of the 1987 Session Laws and Chapter 248 of the 1989 Session Laws, and
31 Chapter 830 of the 1991 Session Laws, reads as rewritten:

32 "Sec. 29. **Board of Trustees.** (a) The Board of Trustees shall consist of 11
33 Trustees, as follows: (i) City Manager, or some other City department head or
34 employee as duly designated by the City Manager; (ii) City Finance Director, or a
35 deputy finance director as duly designated by the City Finance Director; (iii) City
36 Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and
37 who are residents of Mecklenburg County and who are appointed by the Resident Judge
38 of the Superior Court of Mecklenburg County and who shall hold office for a period of
39 three years or until their successor shall have been appointed and been qualified; (v)
40 three Members of the Retirement System to be elected by a ~~Majority Vote~~ vote of the
41 Members of the Retirement System for a term of three ~~years~~ years, pursuant to the
42 Charlotte Firefighters' Retirement System Election Regulation; and (vi) one Retiree of
43 the Retirement System to be elected by a vote of the Retirees of the Retirement System
44 for a term of three ~~years~~ years, pursuant to the Charlotte Firefighters' Retirement

1 System Election Regulation. The terms of office for elected Trustees and, effective July
2 1, 1989, for appointed Trustees, shall be graduated so that only one Trustee's term shall
3 expire each year. Any Member shall be eligible to succeed himself as a Trustee.

4 (b) Conflict of Interest. No trustee, chairman, or other officer or employee of the
5 Charlotte Firefighters' Retirement System shall directly or indirectly become an
6 independent contractor for work done by, or on behalf of, the System, or become
7 directly or indirectly financially interested in, or receive profits from any purchase,
8 contract, or association by or with the System."

9 Sec. 9. This act becomes effective July 1, 1994.