

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 2223*
Committee Substitute Favorable 6/22/06
Corrected Copy 7/12/06**

Short Title: Charlotte Firefighters' Retirement Changes.

(Local)

Sponsors:

Referred to:

May 22, 2006

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE LAW ESTABLISHING THE CHARLOTTE
2 FIREFIGHTERS' RETIREMENT SYSTEM.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Subdivision (9) of Section 2 of Chapter 926 of the 1947
6 Session Laws, as rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, as
7 amended by Chapter 171 of the 1995 Session Laws, Chapter 640 of the 1993 Session
8 Laws, S.L. 1999-100, S.L. 2001-22, and S.L. 2002-43, reads as rewritten:

9 "(9) 'Compensation' means the remuneration reportable on Form W-2
10 earned by a Member for services performed as an employee of the
11 Charlotte Fire Department prior to any reductions pursuant to sections
12 125, 401(k), 402(k), 402(e)(3), 414(h)(2), 403(b), 408(k)(6), and 457
13 of the Internal Revenue Code. Compensation shall include payments
14 for unused sick and vacation days, longevity payments, bonus
15 payments, and merit increases. For the purpose of calculating a
16 Member's Final Average Salary, (i) payments for unused sick and
17 vacation days shall be included as Compensation to the extent that the
18 vacation and sick days for which payments are made could have
19 accrued during two Plan Years of the Member's last five years of
20 Membership Service, and (ii) payments for longevity shall be included
21 as Compensation to the extent such payments were made during two
22 Plan Years of the Member's last five years of Membership Service.
23 Effective July 1, 2002, for purposes of applying the limitations
24 described in Section 51 of this Act, compensation paid or made
25 available during such limitation years shall also include elective
26 amounts that are not includible in the gross income of the Member by
27 reason of section 132(f)(4) of the Internal Revenue Code.

1 In addition to the other applicable limitations set forth in this Act,
2 and notwithstanding any other provision of this Act to the contrary, for
3 Plan Years beginning on or after January 1, 2002, the annual
4 Compensation of each Member taken into account under the Act shall
5 not exceed two hundred thousand dollars (\$200,000), the annual
6 compensation limit under section 401(a)(17) of the Internal Revenue
7 Code, as amended by section 611(c) of the Economic Growth and Tax
8 Relief Reconciliation Act of 2001. Annual compensation means
9 compensation during the Plan Year or such other 12-month period
10 over which Compensation is otherwise determined (the 'determination
11 period'). If a determination period consists of fewer than 12 months,
12 the annual compensation limit will be multiplied by a fraction, the
13 numerator of which is the number of months in the determination
14 period, and the denominator of which is 12. For purposes of
15 determining benefit accruals in a plan year, beginning after December
16 31, 2001, the compensation limit for any prior determination period
17 shall be two hundred thousand dollars (\$200,000). The two hundred
18 thousand dollars (\$200,000) limit on annual compensation shall be
19 adjusted for cost-of-living increases in accordance with section
20 401(a)(17)(B) of the Code."

21 **SECTION 2.** Section 13.1 of Chapter 926 of the 1947 Session Laws, as
22 rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, Chapter 171 of the
23 1995 Session Laws, Chapter 640 of the 1993 Session Laws, S.L. 1999-100, S.L.
24 2001-22, and S.L. 2002-43, is amended by adding a new subsection to read:

25 "(c) In the event of a mandatory distribution greater than one thousand dollars
26 (\$1,000) that is made without the Member's consent and is made to the Member before
27 the Member attains the later of age 62 or Normal Retirement Age, if the Member does
28 not elect to have such distribution paid directly to an eligible retirement plan specified
29 by the Member in a direct rollover or to receive the distribution from the Plan, the
30 Administrator shall pay the distribution in a direct rollover to an individual retirement
31 plan designated by the Administrator."

32 **SECTION 3.** None of the provisions of this act shall create an additional
33 liability for the Charlotte Firefighters' Retirement System unless sufficient assets are
34 available to pay for the liability.

35 **SECTION 4.** This act becomes effective July 1, 2006.