

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 497  
HOUSE BILL 663

AN ACT TO REWRITE THE LAW RELATING TO SUPPLEMENTAL  
RETIREMENT FUNDS FOR FIREMEN IN THE CITY OF ROCKY MOUNT TO  
PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR THE FIREMEN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 434 of the 1969 Session Laws, as amended by Chapter 498 of the 1983 Session Laws, is rewritten to read:

"Section 1. **Supplemental Retirement Fund created.** The Board of Trustees of the Local Firemen's Relief Fund of the City of Rocky Mount established in accordance with G.S. 58-84-30, shall create and maintain a separate fund, the Rocky Mount Supplemental Retirement Fund, and shall maintain books of account for the Fund, separate from the books of account of the Local Firemen's Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. **Transfers of Funds and Disbursements.** Notwithstanding the provisions of G.S. 58-84-35, the Board of Trustees shall:

- (1) Prior to July 1, 1991, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Firemen's Relief Fund in excess of twenty-five thousand dollars (\$25,000);
- (2) At any time when the amount of funds in the Local Firemen's Relief Fund shall, by reason of disbursements authorized by G.S. 58-84-35, be less than twenty-five thousand dollars (\$25,000), transfer from the Supplemental Retirement Fund to the Local Firemen's Relief Fund an amount sufficient to maintain in Local Firemen's Relief Fund the sum of twenty-five thousand dollars (\$25,000);
- (3) As soon as practicable after July 1 of each year, but in no event later than December 31, distribute the sum of (i) the annual funds paid to the Local Firemen's Relief Fund by authority of G.S. 58-84-25, (ii) the income earned in the preceding fiscal year upon investments of funds belonging to the Local Firemen's Relief Fund and (iii) the income earned in the preceding fiscal year upon investments of funds belonging to the Supplemental Retirement Fund as supplemental retirement benefits in accordance with Section 3 of this act. Any funds not paid out as benefits shall become part of the Supplemental Retirement Fund.

**Sec. 3. Supplemental Retirement Benefits.** (a) Any retired full-time fireman of the City who retires subsequent to July 1, 1991, who is 55 years of age or older and who has 20 or more years of creditable service in the Local Governmental Employees' Retirement System as a City fireman, any retired full-time fireman of the City who retired subsequent to July 1, 1969, but before July 1, 1991, who has 20 or more years of service as a City fireman, and any retired full-time fireman of the City who retired prior to July 1, 1969, regardless of length of service, is entitled to and shall receive an annual supplemental benefit equal to one share for each full year of service as a City fireman. No retired full-time fireman is entitled to or shall receive in any year an annual benefit in excess of one thousand dollars (\$1,000).

(b) Any retired volunteer fireman of the City who retires subsequent to July 1, 1991, who is 55 years of age or older and who has 20 or more years of creditable volunteer service as a City fireman, any retired volunteer fireman of the City who retired subsequent to July 1, 1969 but before July 1, 1991, who has 20 or more years of creditable volunteer service as a City fireman, and any retired volunteer fireman of the City who retired prior to July 1, 1969, regardless of length of service, is entitled to and shall receive an annual supplemental benefit equal to seven-tenths (7/10ths) of one share for each full year of service as a volunteer fireman of the City. No retired volunteer fireman shall be entitled to or receive in any year an annual benefit in excess of seven hundred dollars (\$700.00).

(c) Any former full-time fireman of the City who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section is nevertheless entitled to these benefits in any fiscal year in which the Board of Trustees makes the following written findings of fact:

- (1) That he initially retired from his position as a fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman;
- (2) That, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at that time unable, by reason of sickness or injury, to perform the normal duties of an active fireman;
- (3) That, at the time of his initial retirement as a fireman, there was not available to him in the fire department or any other department of the City a position of employment the normal duties of which he was capable of performing;
- (4) That, since the preceding July 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (5) That, there is not available to him in the fire department or in any other department of the City, a position of employment the normal duties of which he is capable of performing.

The Board of Trustees, after initially making the findings of fact specified in subdivisions (1), (2), and (3) of this subsection need not specify these findings in subsequent fiscal years.

Sec. 4. **Intention.** It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only from the income deriving in any fiscal year from funds received pursuant to subdivision (3) of Section 2 of this act.

Sec. 5. **Investment of Funds.** The Board of Trustees shall invest any funds, either of the Local Firemen's Relief Fund or of the Supplemental Retirement Fund, in one or more of the investments named in or authorized by G.S. 159-30, and in accordance with its provisions.

Sec. 6. **Bond of Treasurer.** The Board of Trustees shall bond the Treasurer of the Supplemental Retirement Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties. This bond shall be in lieu of the bond required by G.S. 58-84-30. The Board of Trustees shall pay from the Supplemental Retirement Fund the premiums of the bond of the Treasurer.

Sec. 7. None of the provisions of this act shall create a liability for the Rocky Mount Firemen's Supplemental Retirement Fund or for the State of North Carolina unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 8. If any provisions of this act are declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions that can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are repealed."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives