

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE BILL 1048

Short Title: Charlotte Firefighter Funds.

(Local)

Sponsors: Senators Richardson; Hartsell, Odom, and Blackmon.

Referred to: Pensions and Retirement.

June 1, 1992

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

4 The General Assembly of North Carolina enacts:

5 Section 1. Section 1 of Chapter 506 of the 1987 Session Laws, as amended
6 by Chapter 1033 of the 1987 Session Laws and Chapter 248 of the 1989 Session Laws,
7 which rewrote Chapter 926 of the 1947 Session Laws, as amended, reads as rewritten:

8 "Section 1. Chapter 926, 1947 Session Laws, as amended, is rewritten to read:

9

10

TITLE I. PREFACE.

11

12 Section 1. **Introduction.** The Charlotte Firemen's Retirement System
13 heretofore established pursuant to the provisions of Chapter 926 of the 1947 Session
14 Laws, as amended, is hereby continued and shall hereafter be known as the Charlotte
15 Firefighters' Retirement System. The purpose of the Charlotte Firefighters' Retirement
16 System shall be to provide retirement, disability and survivor benefits for the uniformed
17 employees of the Charlotte Fire Department who are entitled thereto under the
18 provisions of this act. This act shall be officially known and may be referred to as the
19 Charlotte Firefighters' Retirement System Act.

20

21 Sec. 2. **Definitions.** The following words and phrases as used in this act
22 shall have the indicated meanings unless a different meaning is clearly required by the
23 context.

23

- 24 (1) 'Accrued Benefit' means the amount of monthly retirement benefits
earned by a Member computed, as of any date, on his Final Average

- 1 Salary and Membership Service Credit as of such date. In no event
2 shall the Accrued Benefit be less than the Accrued Benefit as of June
3 30, 1986.
- 4 (2) 'Actuarial Equivalent' means a benefit payable by the System that is
5 determined by the Actuary to be equal to the basic benefit provided by
6 the System based on the interest rate and the mortality and other tables
7 and assumptions adopted for such purposes by the Board of Trustees.
8 In no event shall any Actuarial Equivalent be less than the
9 corresponding Actuarial Equivalent as of June 30, 1987, based on the
10 Accrued Benefit and the assumptions in effect on that date.
- 11 (3) 'Actuarial Valuation' or 'Valuation' means a determination of the
12 normal costs, actuarial accrued liability, actuarial value of assets and
13 related actuarial present values of the System performed by an Actuary
14 which are based on the characteristics of the System. Such
15 characteristics include, but are not limited to, age, service, salaries, and
16 rate of turnover by death, disability, termination or retirement.
- 17 (3a) 'Adjustment Factor' means the cost of living adjustment factor
18 prescribed by the Secretary of the Treasury under section 415(d) of the
19 Code for years beginning after December 31, 1987, applied to those
20 items and in the manner the Secretary prescribes.
- 21 (4) 'Armed Forces' means the Armed Forces of the United States of
22 America.
- 23 (5) 'Audit' means an examination of the accounting records of the System
24 performed by a certified public accountant or certified public
25 accounting firm. Such examination is to determine if said records are
26 properly maintained and to make recommendations and suggestions
27 for better record-keeping and management.
- 28 (6) 'Beneficiary', 'Designated Beneficiary', or 'Surviving Beneficiary'
29 means any person, or persons, who is in receipt of, or who is
30 designated in writing to receive, a retirement benefit or other benefit as
31 provided in this act.
- 32 (7) 'Board of Trustees', 'Board' or 'Trustee' means the Board of Trustees
33 of the Charlotte Firefighters' Retirement System, as specified in
34 Section 29, or any individual ~~member~~ Member thereof.
- 35 (8) 'City' means the City of Charlotte.
- 36 (8a) 'Code' means the Internal Revenue Code of 1986, as amended.
- 37 (9) 'Compensation' means the remuneration earned by a Member for
38 services performed as an employee of the Charlotte Fire Department
39 and for which contributions are made to the System. Compensation
40 shall include compensation received during the applicable period by
41 the Member from the City for services performed as an employee of
42 the Charlotte Fire Department during the taxable year ending with or
43 within the Plan Year that is required to be reported as wages on the
44 Member's Form W-2. Compensation also includes compensation

1 realized during the applicable period that is not currently includable in
2 the Member's gross income by reason of the application of sections
3 125, 401(k), 402(a)(8), 402 (h)(1)(B), 403(b), or 457 of the Code. For
4 the purpose of calculating a Member's Final Average Salary, any lump
5 sum payments for which contributions were made to the System, such
6 as longevity pay and bonus payments, and received by said Member
7 within two consecutive years of Membership Service shall be
8 apportioned over the previous Membership Service for which the
9 payment(s) was earned.

10 (10) 'Effective Date' of this amended and restated act means July 1, 1989,
11 unless otherwise specified herein.

12 (11) 'Final Average Salary' means the monthly average Compensation
13 received by a Member during any two consecutive years of
14 Membership Service which produces the highest average and is
15 contained within the Member's last five years of Membership Service.
16 If a Member has less than two years of Membership Service, his Final
17 Average Salary shall mean the monthly average Compensation for his
18 total Membership Service. Effective July 1, 1989, if the Member's
19 monthly benefit, as calculated pursuant to Section 17(a) of this act,
20 exceeds one hundred percent (100%) of his Final Average Salary, as
21 defined by this subdivision, then 'Final Average Salary' means the
22 monthly average Compensation received by a Member during any
23 three consecutive years of Membership Service during which the
24 Member was an active Member of the Retirement System and had the
25 greatest aggregate Compensation from the City. If a Member has
26 fewer than three years of Membership Service, his Final Average
27 Salary shall mean the monthly average Compensation for his total
28 Membership Service.

29 (12) 'He', 'Him', 'His', and any other pronouns and terms shall be used
30 when referring to both male and female Members and/or Beneficiaries
31 of this System, and vice versa.

32 (13) 'Investment Fiduciary' means any person, or persons, who exercises
33 any discretionary authority or control in the investment of the System's
34 assets and/or renders investment advice for a fee to the System.

35 (14) 'Majority Vote' means that number of votes which is more than fifty
36 percent (50%) of the System Members casting ballots.

37 (15) 'Member' means an employee of the Charlotte Fire Department who is
38 subject to the provisions of the Civil Service Act contained in Chapter
39 333 of the 1969 Session Laws as amended, and, in addition, shall
40 include the chief of the fire department where the chief was subject to
41 the provisions of the Civil Service Act immediately prior to being
42 appointed fire chief, and any probationary employee or officer of the
43 fire department under the Civil Service Act.

- 1 (16) 'Membership Service Credit' or 'Membership Service' means the
2 amount of service credited to a Member as provided in this act to
3 determine what, if any, benefits are due him.
- 4 (17) 'Participant' means any Member, Retiree, Beneficiary in receipt of
5 benefits or a former Member with a deferred Accrued Benefit.
- 6 (17a) 'Qualified Participant' means a Participant who is in a defined benefit
7 plan that is maintained by a State or a political subdivision thereof; and
8 a. Who has at least 15 years of Membership Service Credit as a
9 full-time employee of any police department or fire department
10 that is organized and operated by the State or a political
11 subdivision, that maintains such a defined benefit plan; or
12 b. Who is a member of the armed forces of the United States.
- 13 (18) 'Retiree' means any person who retires with a retirement benefit
14 payable by the System.
- 15 (19) 'Retirement System' or 'System' means the Charlotte Firefighters'
16 Retirement System.
- 17 (20) 'Total Contributions' means the sum of the amounts paid by or on
18 behalf of a Member and credited to his individual account by the
19 System.
- 20 (21) 'Year,' 'Plan Year,' or 'Limitation Year' means the twelve months
21 from July 1 through June 30.

22 TITLE II. MEMBERSHIP SERVICE CREDIT.

23
24
25 Sec. 3. **General.** A Member of this Retirement System shall receive
26 Membership Service Credit for all periods of employment with the Charlotte Fire
27 Department for which contributions have been paid to, and not subsequently refunded
28 by, the Charlotte Firefighters' Retirement System. In no case shall more than one year
29 of Membership Service Credit be credited a Member for any 12 calendar month period
30 of time.

31 Sec. 4. **Periods of Worker's Compensation & Accident and Sickness**
32 **Benefits.** Membership Service Credit shall be credited to a Member for any periods of
33 workers' compensation and/or accident and sickness benefits for which said Member
34 contributes to the Charlotte Firefighters' Retirement System an amount equal to the
35 Compensation the Member would have earned multiplied by the sum of the then current
36 social security contribution rate and five percent (5%). Such contributions must be
37 made within a 12 calendar month period from and after the date the Member returns to
38 employment with the Charlotte Fire Department and prior to the Member's termination
39 of membership or retirement.

40 Sec. 5. **Reinstatement of Membership Service Credit Previously**
41 **Forfeited.** Membership Service Credit shall be credited for previous Membership
42 Service for a Member who is reemployed by the Charlotte Fire Department within five
43 years of the termination date of his previous employment, and provided the Member has
44 not received reimbursement of his Total Contributions pursuant to the provisions of this

1 act. Any Member who is reemployed by the Charlotte Fire Department before January
2 1, 1959, shall receive Membership Service Credit for all previous membership
3 employment in said department. Any Member who was reemployed by the Charlotte
4 Fire Department after December 31, 1958, and has previously received reimbursement
5 of his Total Contributions pursuant to the provisions of this act, shall receive no
6 Membership Service Credit for any previous membership employment with the
7 Charlotte Fire Department.

8 **Sec. 6. Return from Active Military Duty.** Membership Service Credit
9 shall be credited to any Member who entered the Armed Forces of the United States of
10 America during World War I, World War II, the Korean War, any period of national
11 emergency conditions, or entered the Armed Forces at any time through the operation of
12 the compulsory military service law of the United States of America, upon the return to
13 membership employment with the Charlotte Fire Department. Such Membership
14 Service Credit shall include the period of active military service and any period after
15 discharge or release from active duty from the Armed Forces for which his
16 reemployment rights are guaranteed by law unless otherwise specified in this act.

17 **Sec. 7. Purchase of Membership Service Credit for Prior Active Military**
18 **Duty.** Membership Service Credit may be purchased for credit upon the completion of
19 ten or more years of Membership Service Credit. Effective July 1, 1988, the purchase
20 of such Membership Service Credit must occur before the completion of 13 years of
21 Membership Service Credit, or by October 7, 1990, whichever is later, prior to
22 termination of membership or retirement, by any Member who served on active duty in
23 the Armed Forces of the United States of America prior to his employment with the
24 Charlotte Fire Department. The amount of Membership Service Credit to be credited to
25 a Member will be equal to the actual active military duty by the Member not to exceed
26 five years and shall be credited upon the payment of the required contributions as
27 determined by the Administrator, provided that the Membership Service to be so
28 credited shall not be credited in any other retirement system, except the national guard
29 or any reserve component of the Armed Forces of the United States. The required
30 contributions shall be an amount equal to the annualized Compensation rate the Member
31 earned when he first entered membership in the Retirement System, multiplied by the
32 sum of the Member and the City of Charlotte contribution rates in effect at the time
33 when he first entered membership in the Retirement System, increased by five percent
34 (5%) compounded per annum from the date of membership to the date of the payment
35 of the required contributions and multiplied by the number of years and days of
36 Membership Service to be credited.

37 **Sec. 8. Accumulated Sick Leave and Vacation at Retirement.**
38 Membership Service Credit shall be credited to a Member for the balance of any unpaid
39 sick leave and/or unpaid vacation at the time of his retirement, excluding any sick leave
40 and/or vacation that was converted to a qualified deferred compensation program as
41 defined by the City. Such Membership Service Credit shall be determined by the
42 Administrator and shall be proportional based on the normal work schedule of the
43 Member. Such Membership Service Credit cannot be used to meet the minimum
44 qualifications for a disability retirement benefit, vested benefit or early retirement

1 benefit, but may be used to meet the minimum qualifications for a service retirement
2 benefit.

3 **Sec. 9. Determination by Board of Trustees.** In any case of doubt as to the
4 period of Membership Service Credit to be so credited any Member, the Board of
5 Trustees shall have final power to determine such period.

6

7

TITLE III. TERMINATION OF MEMBERSHIP.

8

9 **Sec. 10. Members With Less Than Five Years of Membership Service Credit.**

10 (a) If a Member with less than five years of Membership Service Credit with this
11 Retirement System shall cease employment with the Charlotte Fire Department,
12 whether voluntary or involuntary, said former Member shall thereupon cease
13 membership and shall be entitled to reimbursement of the Total Contributions made by
14 or on his behalf to the Retirement System, excluding any contributions made on the
15 former Member's behalf by the City of Charlotte under the provisions of Section 25 of
16 this act without interest. A former Member desiring reimbursement of said
17 contributions must complete and file the form 'Application for Refund of Accumulated
18 Contributions' with the Administrator within five years of the termination date of his
19 employment. Should a former Member fail to complete and file said form with the
20 Administrator within such five years, the former Member shall receive reimbursement
21 of said contributions.

22 (b) If such a former Member dies within five years after terminating his
23 employment prior to receiving reimbursement of contributions pursuant to subsection
24 (a) of this section, his Designated Beneficiary(s) on file with the Retirement System or
25 his personal representative in the absence of any Designated Beneficiary, may apply for
26 reimbursement of contributions pursuant to subsection (a) of this section and must file
27 such application with the Administrator within five years of the date of death of the
28 former Member or the funds will be paid to the Designated Beneficiary, if living, or
29 otherwise to the former Member's estate.

30 **Sec. 11. Members With Five or More Years of Membership Service Credit.** (a)

31 Effective July 1, 1986, if a Member with ten or more years of Membership
32 Service Credit with this Retirement System shall cease employment with the Charlotte
33 Fire Department, whether voluntary or involuntary, said Member shall receive his
34 Accrued Benefit and defer such benefit until the Participant reaches age 60 years.

35 Effective July 1, 1989, if a Member with five or more years of Membership Service
36 Credit with this Retirement System ceases employment with the Charlotte Fire
37 Department, whether voluntarily or involuntarily, the Member shall receive his Accrued
38 Benefit and defer this benefit until the Participant reaches 60 years of age. The Accrued
39 Benefit shall be calculated pursuant to the provisions of Sections 15 and 17 of this act in
40 effect on the last day of work by said Participant. If such Participant dies before
41 applying for his deferred benefits and attaining age 60 years, reimbursement of the
42 Participant's contributions may be accomplished in the same manner and in all respects
43 as in Section 10 of this act.

1 (b) As an alternative to the provisions of subsection (a) of this section, if a
2 Member with five or more years of Membership Service Credit with this Retirement
3 System shall cease employment with the Charlotte Fire Department, whether voluntary
4 or involuntary, said Member shall thereupon cease membership and may elect to receive
5 reimbursement of his contributions in the same manner and in all respects as in Section
6 10 of this act.

7 Sec. 12. **Failure to Return From Active Military Duty.** Should any
8 Member of this Retirement System who entered the Armed Forces of the United States
9 of America pursuant to the provisions of Section 6 of this act fail to return to
10 employment with the Charlotte Fire Department within the period for which his
11 reemployment rights are guaranteed by law, said Member shall thereupon cease
12 membership and shall be entitled to a deferred benefit or reimbursement of his
13 contributions in the same manner and in all respects as in Section 10 or 11 of this act,
14 whichever is applicable.

15 Such former ~~member~~ Member shall not receive Membership Service Credit for the
16 period of active military duty or any period after discharge or release from active duty
17 from the Armed Forces for which his reemployment rights had been guaranteed by law.

18 Sec. 13. Repealed by Section 7 of Chapter 248 of the 1989 Session Laws.

19 Sec. 14. **Retirement of Member.** Upon his retirement pursuant to the
20 provisions of this act, a Member shall thereupon cease membership in the Charlotte
21 Firefighters' Retirement System.

22 23 TITLE IV. BENEFITS 24

25 Sec. 15. **Service Retirement.** A Member may upon written application
26 through the Administrator to the Board of Trustees set forth an effective date of not less
27 than 30 days nor more than 90 days subsequent to the execution and filing thereof that
28 he desires to be retired, provided that he has attained the age and acquired the required
29 Membership Service Credit and has been approved by the Board:

30 (1) The age and Membership Service Credit requirements for service
31 retirement are as follows:

- 32 a. Any age and 30 or more years of Membership Service Credit;
33 b. Age 50 years or older and 25 or more, but less than 30 years of
34 Membership Service Credit; or
35 c. Effective July 1, 1986, age 60 years or older and 10 or more,
36 but fewer than 25 years of Membership Service Credit.
37 Effective July 1, 1989, age 60 years or older and 5 or more, but
38 fewer than 25 years of Membership Service Credit.

39 (2) Upon a Member's service retirement, he shall be paid a benefit as
40 provided in Section 17 of this act.

41 Sec. 16. Repealed by Section 9 of Chapter 248 of the 1989 Session Laws.

42 Sec. 17. (a) Effective July 1, 1986, upon retirement pursuant to the provisions
43 of Sections 15 or 16, a Member shall receive a monthly benefit equal to two and four-
44 tenths percent (2.4%) of his Final Average Salary multiplied by his Membership Service

1 Credit, not to exceed one hundred percent (100%) of Final Average Salary, but not less
2 than five hundred dollars (\$500.00) per month. Effective July 1, 1989, upon retirement
3 pursuant to the provisions of Section 15, a Member shall receive a monthly benefit
4 equal to two and six-tenths percent (2.6%) of his Final Average Salary multiplied by his
5 Membership Service Credit, not to exceed one hundred percent (100%) of Final
6 Average Salary, but not less than five hundred dollars (\$500.00). The benefit payable
7 pursuant to this subsection shall be referred to as the basic benefit.

8 (b) Prior to his retirement, but not thereafter, a Member may elect to receive an
9 Actuarial Equivalent, computed as of the effective date of his retirement, of his basic
10 benefit from subsection (a) of this section in a reduced monthly amount payable
11 throughout his life, and nominate a Beneficiary in accordance with the provisions of
12 option 1, 2, 3, 4, 5 or 6 as set forth below. Actuarial Equivalent for all Members retiring
13 prior to July 1, 1987, shall be computed in accordance with the Group Annuity Table
14 for 1951 with interest at four percent (4%). Actuarial Equivalent for all Members
15 retiring after June 30, 1987, shall be computed in accordance with the Unisex Mortality
16 Table for 1984 set forward one year in age with interest at six percent (6%). If a
17 Member does not have an option election in force at the time of his retirement, his
18 monthly benefit shall be paid as the basic benefit.

19 (c) Option 1. Benefit for 10 Years Certain and Life Thereafter. A Retiree shall
20 receive a reduced basic benefit payable monthly throughout his life with the provision
21 that if he dies before he has received 120 monthly payments, the payments will continue
22 for the remainder of the 120-month period to such Beneficiary, if living, as the Retiree
23 shall have nominated by written designation duly executed and filed with the Board of
24 Trustees.

25 (d) Option 2. 100% Joint and Survivor Benefit. A Retiree shall receive a
26 reduced basic benefit payable monthly throughout his life and upon his death his
27 reduced monthly benefit shall continue throughout the life of such Beneficiary, if living,
28 as the Retiree shall have nominated by written designation duly executed and filed with
29 the Board of Trustees.

30 (e) Option 3. 75% Joint and Survivor Benefit. A Retiree shall receive a reduced
31 basic benefit payable monthly throughout his life and upon his death seventy-five
32 percent (75%) of his reduced monthly benefit shall continue throughout the life of such
33 Beneficiary, if living, as the Retiree shall have nominated by written designation duly
34 executed and filed with the Board of Trustees.

35 (f) Option 4. 66 2/3% Joint and Survivor Benefit. A Retiree shall receive a
36 reduced basic benefit payable monthly throughout his life and upon his death sixty-six
37 and two-thirds percent (66 2/3%) of his reduced monthly benefit shall continue
38 throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by
39 written designation duly executed and filed with the Board of Trustees.

40 (g) Option 5. 50% Joint and Survivor Benefit. A Retiree shall receive a reduced
41 basic benefit payable monthly throughout his life and upon his death fifty percent (50%)
42 of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if
43 living, as the Retiree shall have nominated by written designation duly executed and
44 filed with the Board of Trustees.

1 (h) Option 6. A Retiree may elect any of Options 2 through 5 with the added
2 provision that in the event the Designated Beneficiary predeceases the Retiree, the
3 monthly benefit payable to the Retiree after the Beneficiary's death shall be equal to the
4 basic benefit. Such election will result in a benefit that is further reduced than the
5 corresponding benefit payable under Options 2 through 5 if this Option 6 has not been
6 elected. The intent of this additional reduction is to support the additional cost of this
7 election.

8 (i) In the event that a Retiree who named his spouse as Beneficiary in
9 accordance with the provisions of Options 1 through 6 and shall subsequently become
10 divorced from the named Beneficiary, the Retiree may then elect a life annuity which
11 shall be the Actuarial Equivalent of the value of all future benefit payments under the
12 option then in effect upon written request to the Board of Trustees provided such
13 request is not inconsistent with the terms of the divorce decree. It is the Retiree's
14 responsibility to provide all pertinent documentation.

15 Sec. 18. **Early Retirement.** A Member may upon written application
16 through the Administrator to the Board of Trustees set forth an effective date of not less
17 than 30 days nor more than 90 days subsequent to the execution and filing thereof that
18 he desires to be retired, provided that he has acquired 25 or more, but less than 30 years
19 of Membership Service Credit and is less than age 50 years. Upon a Member's early
20 retirement, he shall receive a benefit as provided in Section 17, except such benefit shall
21 be reduced by twenty-five one-hundredths of one percent (.25%) for each whole month
22 the early retirement date precedes the Member's attainment of age 50 years.

23 Sec. 19. Disability Retirement in the Line of Duty.

24 (a) An 'Application for Disability Retirement in the Line of Duty' shall be filed
25 by the Member or his department head with the Administrator, provided that the
26 Member has applied for and been granted workers' compensation benefits on account of
27 this disability.

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

32 (c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
33 section, a Member shall receive a monthly benefit equal to seventy-two percent (72%)
34 of his Final Average Salary, but not less than five hundred dollars (\$500.00) per month.
35 Effective July 1, 1987, upon retirement pursuant to the provisions of this section, a
36 Member shall receive a monthly benefit equal to the greater of seventy-two percent
37 (72%) or two and four-tenths percent (2.4%) multiplied by his Membership Service, of
38 his Final Average Salary, not to exceed one hundred percent (100%) of his Final
39 Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective
40 July 1, 1988, prior to his retirement pursuant to the provisions of this Section, but not
41 thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the
42 effective date of his retirement, of his monthly amount payable throughout his life, and
43 nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent
44 (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The

1 Actuarial Equivalent for all ~~members~~ Members retiring pursuant to this Section shall be
2 computed in accordance with the Unisex Mortality Table for 1984 set forward one year
3 in age, with interest at six percent (6%). Benefits payable under this Section shall be
4 effective on the date of approval by the Board of Trustees or upon exhaustion of
5 workers' compensation benefits, whichever is later. Also, disability retirement benefits
6 payable under this Section may be adjusted by the disability retirement regulations
7 adoptd pursuant to the requirements contained in subsection (b) of this Section.

8 Sec. 20. Disability Retirement not in the Line of Duty.

9 (a) An 'Application for Disability Retirement not in the Line of Duty' shall be
10 filed by a Member or his department head with the Administrator, provided that the
11 Member has 10 or more years of Membership Service Credit and has applied for and
12 been granted accident and sickness benefits on account of the disability.

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

17 (c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
18 section, a Member shall receive a monthly benefit equal to thirty-six percent (36%) of
19 his Final Average Salary, plus one and eight-tenths percent (1.8%) of his Final Average
20 Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed
21 one hundred percent (100%) of his Final Average Salary, but not less than five hundred
22 dollars (\$500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to
23 the provisions of this section, but not thereafter, a Member may elect to receive an
24 Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly
25 amount payable throughout his life, and nominate a Beneficiary in accordance with the
26 provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth
27 in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring
28 pursuant to this section shall be computed in accordance with the Unisex Mortality
29 Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits
30 payable under this section shall be effective on the date of approval by the Board of
31 Trustees. Also, disability retirement benefits payable under this Section may be
32 adjusted by the disability retirement regulations adoptd pursuant to the requirements
33 contained in subsection (b) of this Section.

34 Sec. 21. (a) In the event of the death of any Member of the System prior to his
35 effective date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20
36 of this act, his Designated Beneficiary(s) on file with the Retirement System, or his
37 personal representative in the absence of any Designated Beneficiary, shall be entitled
38 to reimbursement of the Total Contributions by him or on his behalf and the City of
39 Charlotte to the System; plus, two and five-tenths percent (2.5%) interest compounded
40 annually on the contribution balance at the beginning of each Plan Year in which the
41 Participant contributed or in which contributions were made on his behalf. However,
42 the two and five-tenths percent (2.5%) interest shall not apply to death benefits
43 occurring before July 1, ~~1989-1986.~~ Such Beneficiary(s) or personal representative
44 must complete and file the form 'Application for Survivor Death Benefits' with the

1 Administrator to receive reimbursement. As an option, a Beneficiary may elect to
2 receive an annuity equal to and in lieu of a lump sum distribution by so designating on
3 the above form. Effective July 1, 1989, as an option, a surviving spouse of a deceased
4 Member who was eligible for a service or early retirement benefit on the date preceding
5 death may elect to receive an Actuarial Equivalent computed as of the date preceding
6 death in the same manner as if the deceased member had retired and elected a reduced
7 monthly amount payable throughout his life, and nominated the surviving spouse as his
8 beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds
9 Percent (66 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17.
10 The Actuarial Equivalent for all benefits payable pursuant to this section shall be
11 computed in accordance with the Unisex Mortality Table for 1984 set forward one year
12 in age, with interest at six percent (6%).

13 (b) In the event of the death of a Retiree of this System before he has received
14 monthly benefit payments equal to the present value on the effective date of retirement
15 of the Total Contributions by him or on his behalf and the City of Charlotte to the
16 ~~system;~~ System; plus, two and five-tenths percent (2.5%) interest compounded annually
17 on the contribution balance at the beginning of each Plan Year in which the Participant
18 contributed or in which contributions were made on his behalf and provided a monthly
19 benefit is not payable in accordance with Section 17, the Designated Beneficiary(s) or
20 estate of the retiree shall be entitled to an amount equal to the difference between such
21 contributions, plus interest, and the sum of the monthly benefit payments received by
22 the retiree. However, the two and five-tenths percent (2.5%) interest shall not apply to
23 death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal
24 representative must complete and file the form 'Application for Survivor Death
25 Benefits' with the Administrator to receive reimbursement.

26 Sec. 22. **Coordination of Benefits.** The Board of Trustees shall reduce the
27 amount of any benefits payable under the provisions of this section by any amount of
28 benefits being concurrently paid to a Retiree by or on behalf of the City of Charlotte.

29 Sec. 23. Post-Retirement Adjustments.

30 (a) The retirement benefits payable to a Retiree pursuant to the provisions of this
31 act may be adjusted at the discretion of the Board of Trustees based upon the prevailing
32 economic and funding conditions. Such adjustment shall not be paid until such
33 adjustment is ratified by the City of Charlotte.

34 (b) Effective July 1, 1989, the Board of Trustees shall make an annual bonus
35 payment in the month of January following an annual actuarial valuation when the
36 actuary determines that the actual payroll contributions exceed the required
37 contributions adjusted for any actuarial gains and losses that may have occurred during
38 the preceding year. The lesser of fifty percent (50%) of the excess amount determined
39 by the actuary or the aggregate monthly benefit of the Retirees eligible for the bonus
40 shall be distributed. A Retiree who has been retired for at least one year as of December
41 31, preceding distribution of the bonus, shall receive a bonus that is determined by the
42 Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly
43 benefits of all Retirees eligible for the bonus.

44

TITLE V. METHOD OF FINANCING.

1
2
3 **Sec. 24. Member Contributions.** Each Member shall contribute to the
4 Charlotte Firefighters' Retirement System and the City of Charlotte shall cause to be
5 deducted from each and every payroll of such Member, an amount equal to the
6 Member's Compensation multiplied by the sum of the then current social security
7 contribution rate and five percent (5%).

8 Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the
9 City of Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the
10 Internal Revenue Code of 1986, as amended from time to time, may elect to pick up and
11 pay the contributions that would be payable by the Members of the Retirement System
12 under this section with respect to the service of the Members after June 30, 1983.

13 The Members' contributions picked up by the City of Charlotte shall be designated
14 for all purposes of the Retirement System as Member contributions, except for the
15 determination of tax upon a distribution from the Retirement System. These
16 contributions shall be credited to the fund created by this act accumulated within the
17 fund in a Member's account that shall be separately established for the purpose of
18 accounting for picked-up contributions. Member contributions picked up by the City of
19 Charlotte shall be payable from the same source of funds used for the payment of
20 Compensation to a Member. A deduction shall be made from a Member's
21 Compensation equal to the amount of his contributions picked up by the City of
22 Charlotte. This deduction, however, shall not reduce his Compensation for purposes of
23 the Retirement System. Picked-up contributions shall be transmitted to the Retirement
24 System.

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

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

36 (c) Should any Member of the Retirement System enter the Armed Forces of the
37 United States of America, upon approval by the City Council, the City of Charlotte by
38 and on behalf of such Member may contribute an amount equal to, but not to exceed,
39 the Compensation such Member would have earned based upon the last pay grade with
40 the Fire Department multiplied by the contribution rate established pursuant to Section
41 24 of this act. Any contributions by and on behalf of such Member shall inure to the
42 benefit of such Member as though made by such Member under the provisions of this
43 act unless otherwise specified in this act.

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

4 Sec. 26. **Other.** Any other contributions by or on the behalf of any Member
5 or the City of Charlotte pursuant to the provisions of this act, shall be received by the
6 Charlotte Firefighters' Retirement System.

7 8 **TITLE VI. ADMINISTRATION BY BOARD OF TRUSTEES.**

9
10 Sec. 27. **General.** The Board of Trustees heretofore established is hereby
11 continued. The general administration, management and responsibility for the proper
12 operation of the Retirement System and for construing and making effective the
13 provisions of this act are vested in the Board of Trustees.

14 Sec. 28. **Body Politic and Corporate.** The Board of Trustees shall be a
15 body politic and corporate under the name of the Board of Trustees of the Charlotte
16 Firefighters' Retirement System and as a body politic and corporate shall have the right
17 to sue and be sued, shall have perpetual succession and a common seal, and in said
18 corporate name shall be able and capable in law to take, receive, demand and possess all
19 kinds of property hereinafter specified, and to bargain, sell, grant, transfer or dispose of
20 all such property as it may lawfully acquire. All such property owned or acquired by
21 said body politic and corporate shall be exempt from all taxes imposed by the State or
22 any political subdivision thereof, specifically, but not limited to, income, license,
23 machinery, franchise and sales taxes. In addition, the Board of Trustees as a body
24 politic and corporate may purchase and maintain such insurance policy or policies as
25 may be necessary for the protection of the System, the System's assets, and trustees for
26 acts performed by them as trustees, excluding malfeasance. All expenses for the
27 purchase or maintenance of insurance shall be borne by the System.

28 Sec. 29. **Board of Trustees.** The Board of Trustees shall consist of 10
29 Trustees, as follows: (i) City Manager, or some other City department head or
30 employee as duly designated by the City Manager; (ii) City Finance Director, or a
31 deputy finance director as duly designated by the City Finance Director; (iii) City
32 Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and
33 who are residents of Mecklenburg County and who are appointed by the Resident Judge
34 of the Superior Court of Mecklenburg County and who shall hold office for a period of
35 three years or until their successor shall have been appointed and been qualified; ~~and~~ (v)
36 three Members of the Retirement System to be elected by a Majority Vote of the
37 Members of the Retirement System for a term of three ~~years~~ years; and (vi) one Retiree
38 of the Retirement System to be elected by a majority vote of the retirees of the
39 Retirement System for a term of three years. The terms of office for elected Member
40 Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that
41 only one Trustee's term shall expire each year. Any Member shall be eligible to succeed
42 himself as a Trustee.

43 Sec. 30. **Election of Member Trustees.** The elections of the ~~member~~
44 Member Trustees as provided for in Section 29(v) and the Retiree Trustee as provided

1 for in Section 29 (vi) shall be administered in accordance with rules and regulations
2 adopted by the Board of Trustees from time to time.

3 Sec. 31. **Oath of Office.** An oath of office shall be administered to the
4 Chairman of the Board and each Trustee prior to their assumption of duties with the
5 Board of Trustees. The oath of office shall be administered by the Mayor only after the
6 Trustee having first qualified and within 10 days after having been appointed or elected.
7 The Chairman of the Board and each Trustee shall swear to diligently and honestly
8 administer the affairs of said Board and that he will not knowingly violate or willfully
9 permit to be violated any of the provisions of the law applicable to the Retirement
10 System. Such oath of office shall be subscribed to by the Member making it, and
11 certified by the officer by whom it is taken, and immediately filed in the office of the
12 City Clerk.

13 Sec. 32. **Vacancy on Board of Trustees.** (a) In the event that an elected
14 Trustee of the Board shall make application for benefits under this act he shall first
15 submit a written notice to the Chairman of the Board disqualifying himself from his
16 trusteeship.

17 (b) A vacancy shall be deemed to have occurred if a Trustee or the Chairman
18 fails to attend any three consecutive meetings of the Board without prior notification
19 unless excused for cause by the Trustees attending said meetings.

20 (c) A vacancy shall be deemed to have occurred if a Trustee or the Chairman
21 should die.

22 (d) If a Trustee shall deem himself incapable of fulfilling his Board obligations
23 for any reason or if any condition exists that renders the Trustee disqualified, the
24 Trustee shall submit a written notice to the Chairman disqualifying himself from his
25 trusteeship. If the Chairman shall deem himself to be disqualified for any of the
26 foregoing reasons, he shall submit written notice to the Resident Judge of the Superior
27 Court of Mecklenburg County.

28 (e) If a vacancy shall occur pursuant to the provisions of subsections (a) through
29 (d) of this section, the vacancy shall be filled within 90 days after the date of the
30 vacancy, for the unexpired portion of the term, in the same manner as the position was
31 previously filled.

32 Sec. 33. **Compensation of Trustees.** The members of the Board of Trustees
33 of the Charlotte Firefighters' Retirement System shall serve without compensation, but
34 shall be reimbursed for all reasonable and necessary expenses incurred through service
35 upon said Board.

36 Sec. 34. **Officers of System.** (a) The Chairman of the Board, named pursuant
37 to the provisions of Section 29(iv) of this act, shall preside at all meetings that he is in
38 attendance.

39 (b) At its first regular meeting each ~~Year~~-year, the Board shall elect from its
40 membership: (1) A Vice Chairman, who shall preside at any meeting that the
41 Chairman is absent; and (2) A Secretary of the Board, who shall be responsible for the
42 recording and certifying of the record of proceedings.

43 (c) The City Treasurer shall be the Treasurer of the Retirement System and shall
44 be custodian of its assets.

1 Sec. 35. **Meetings.** (a) The Board of Trustees shall conduct its business at meetings
2 that conform with the 'Open Meetings Law,' Article 33C of Chapter 143 of the General
3 Statutes, G.S. 143-318.9 through G.S. 143-318.18.

4 (a1) The Board of Trustees shall hold meetings regularly, at least one in each
5 calendar quarter, and shall designate the time and place thereof. The first regular
6 meeting in each Plan Year shall be held on the ~~third~~-fourth Thursday of the month of
7 July.

8 (b) The Chairman or, in the absence of the Chairman, the Vice Chairman may
9 hold a special meeting and/or an emergency meeting at his discretion. Additionally,
10 upon the written request of two members of the Board of Trustees, the Chairman shall
11 call a special meeting of the Board.

12 When a special meeting is called, the Administrator shall insure that notice is given
13 to each trustee either in person or by first class mail to the address of record on file with
14 the Administrator. Such notice shall include the purpose of the meeting and designate
15 the time, date and place thereof. The Chairman or Vice Chairman shall insure that the
16 business of the special meeting be limited to the purpose as set forth in the notice.

17 When an emergency meeting is called, the Administrator shall attempt to notify each
18 Trustee by telephone to the telephone number on file with the Administrator.

19 (c) Each Trustee shall be entitled to one vote on each motion presented to the
20 Board of Trustees. The Chairman shall only vote in case of a tie or in such case as to
21 create a quorum of voting. ~~Five~~-Six attending Trustees, including the Chairman, shall
22 constitute a quorum at any meeting of the Board and at least ~~five~~-six affirmative votes
23 shall be necessary for a decision by the Trustees at any meeting of said Board. Prior to
24 any discussion of a specific agenda item for which a Trustee or the Chairman deems
25 himself to have a conflict of interest, or at such point during discussion that he
26 determines himself to have a conflict of interest, the member of the Board shall
27 thereupon make such conflict known to the Board and the Board shall inquire into the
28 nature of the conflict and make a determination whether a conflict of interest exists and
29 if the Board member should participate in discussion and vote on the agenda item.

30 (d) The Board of Trustees through the Secretary shall cause to be kept a record of
31 all of its proceedings which shall be open to public inspection.

32 Sec. 36. **Employment of Professional Services.** (a) The Board of Trustees
33 shall have the authority to employ and/or utilize professional and secretarial services
34 and to purchase and maintain such property, equipment and supplies as are deemed
35 necessary for the proper operation of the System. All expenses, fees and/or retainers for
36 the employment of services shall be borne by the System with the singular exception of
37 the employment of the Actuary. All fees and expenses in connection with the
38 employment of a qualified actuary shall be paid by the City of Charlotte.

39 (a1) **Actuary.** The Board of Trustees shall annually request the City to employ a
40 qualified Actuary to perform such studies and evaluations of the Charlotte Firefighters'
41 Retirement System as may be necessary and/or desirable by the Board or City in
42 connection with the administration of the System. Within the meaning of this
43 subsection, a qualified Actuary shall be an Actuary who has been enrolled by the Joint
44 Board for the Enrollment of Actuaries and shall be an associate, member, or fellow of

1 the conference of Actuaries in Public Practice or a member of the American Academy
2 of Actuaries.

3 (b) **Medical Board.** The Board of Trustees shall appoint a Medical Board to be
4 composed of three physicians to serve at the pleasure of the Board. The Medical Board
5 shall arrange for and evaluate all medical examinations required under provisions of this
6 act. The Medical Board shall also investigate and evaluate all medical evidence,
7 statements, and certificates submitted by and on behalf of a Member in connection with
8 an application for disability retirement. The Medical Board shall render its conclusions
9 and recommendations in writing to the Board of Trustees in accordance with the
10 provisions of this act.

11 (c) **Legal Counsel.** The City attorney and staff shall be the legal advisor to the
12 Board of Trustees.

13 (d) **Auditor.** The Board of Trustees shall appoint an Auditor who shall be a
14 certified public accountant.

15 (e) **Administrator.** The Board of Trustees shall have the authority to appoint an
16 Administrator who shall be responsible for the administration and coordination of all
17 System operations and activities that are not otherwise specified in this act. Such
18 administration shall be in accordance with rules and regulations of this act and the
19 policy and direction of the Board. In the absence of an Administrator, the Secretary of
20 the Board as specified in Section 34(b)(2) shall be responsible for the coordination of
21 Board meetings and providing proper notice of such meetings.

22 (f) **Insurance.** The Board of Trustees may purchase and maintain that insurance
23 coverage necessary for the proper operation of the System, including worker's
24 compensation, fidelity insurance, and officers' and employees' liability coverage. All
25 expenses incurred in purchasing or maintaining this coverage, including fees, and
26 retainers, shall be borne by the System.

27 Sec. 37. **Committees.** The Chairman of the Board shall appoint an
28 Investment Committee and shall have the authority to appoint other committees of the
29 Board as deemed appropriate.

30 Sec. 38. **Authority of Board of Trustees to Recommend Changes to the**
31 **Retirement System.** The Board of Trustees shall have the authority to recommend to
32 the City changes to the Retirement System. All recommendations for changes must be
33 actuarially sound and must take into account the interest of all Participants in the
34 System.

35 Sec. 39. **Authority of City of Charlotte to Make Changes with Respect to**
36 **the Retirement System.** Upon the recommendation of the Board of Trustees as
37 provided in Section 38 of this act, the City may, within its discretion, increase or
38 decrease the rate of contribution of the Members of the System and the City of Charlotte
39 as may be necessary for the proper operation of the Retirement System. Provided,
40 however, that no change shall reduce benefits being paid to Retirees of the System.

41 The City may deviate from the provisions of this act to the extent necessary to make
42 any changes in the System required by the Internal Revenue Service prior to its issuing
43 a favorable determination letter under Section 401(a) and Section 501(a) of the

1 Internal Revenue Code of 1986, as amended from time to time, and as required by the
2 Internal Revenue Service to maintain the qualified status of the Retirement System.

3 Sec. 40. **Authority of City of Charlotte to Recommend Changes to the**
4 **Retirement System.** The City may recommend to the General Assembly of the State of
5 North Carolina changes to the Retirement System. All recommendations for changes
6 must be actuarially sound and must take into account the interest of all Participants in
7 the System.

8 Sec. 41. **Rules and Regulations.** Consistent with the provisions of this act,
9 the Board of Trustees shall have the authority to adopt the rules and regulations for the
10 administration of the Retirement System and for the transaction of its business.

11 **TITLE VII. RECORD-KEEPING AND REPORTING REQUIREMENTS.**

12 Sec. 42. **Record-Keeping.** The Administrator, or the Secretary of the Board
13 in the absence of an administrator, shall maintain all data, files and records as is
14 necessary to comply with the reporting requirements of this act.

15 Sec. 43. **Annual Audit.** There shall be an annual Audit of the books of the
16 System. The Audit shall be performed by the Auditor as specified in Section 36(d).

17 Sec. 44. **Annual Actuarial Valuation.** There shall be an annual Actuarial
18 Valuation as of the 1st of July. The Valuation shall be performed by the actuary as
19 specified in Section 36(a1). Such Valuation shall be completed and presented to the
20 Board no later than the second regular quarterly meeting each year.

21 Sec. 45. **Annual Report to City Council.** An annual report of the financial
22 and actuarial condition of the System, as of the preceding June 30, shall be prepared and
23 forwarded to the City Council in the quarter after receipt of the System's audit report
24 from the Auditor. Such report shall contain but shall not be limited to the Auditor's
25 opinion, such statements contained in the Auditor's report, a summary of the annual
26 actuarial valuation and the actuary's valuation certification.

27 Sec. 46. **Annual Report to Members.** A copy of the report required by
28 Section 45 shall be provided to each of the fire stations and Fire Department
29 administrative offices of the City of Charlotte.

30 Sec. 47. **Other Reports.** The Administrator, or the Secretary of the Board in
31 the absence of an administrator, shall be responsible for insuring that all reporting
32 requirements with the Internal Revenue Service and the United States Government,
33 including its various other agencies, departments, and offices, are complied with.

34 **TITLE VIII. CUSTODY AND INVESTMENT OF SYSTEM ASSETS.**

35 Sec. 48. **Trusteeship of Funds.** The Board of Trustees of the Charlotte
36 Firefighters' Retirement System shall be the Trustee of the funds and assets of the
37 System and shall have the power to take by gift, grant, devise or bequest any money,
38 real or personal property or other things of value, and hold, sell or invest the same.

39 Sec. 49. **Custody of System Assets.** The Treasurer of the Retirement
40 System shall be the custodian and responsible for the safekeeping of all funds paid into
41

1 the Charlotte Firefighters' Retirement System. The Treasurer shall deposit said funds in
2 a bank or banks as designated by the Board of Trustees. The Treasurer may, with Board
3 concurrence, use one or more nominees to facilitate transfer of the System's securities
4 and may hold the securities in safekeeping with the Federal Reserve System, a clearing
5 corporation, or a custodian bank which is a member of the Federal Reserve System. All
6 payments from said funds shall be authorized by the treasurer only upon the signed,
7 written request of the Administrator, or the Secretary of the Board in the absence of an
8 administrator. The Treasurer shall furnish such bond as shall be required by the Board
9 of Trustees and premium for said bond shall be paid out of the funds of the System.

10 Sec. 50. **Investment/Reinvestment of Funds and Assets.** The Board of
11 Trustees shall be vested with the authority and responsibility and shall have full power
12 to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities and
13 investments in which the System shall have been invested, as well as the proceeds of
14 said investments and any monies belonging to the System. The Board of Trustees as
15 fiduciaries shall:

- 16 (1) Discharge its duties solely in the interest of the Participants and the
17 Beneficiaries;
- 18 (2) Act with the same care, skill, prudence and diligence under the
19 circumstances then prevailing, that a prudent person acting in a similar
20 capacity and familiar with those matters would use in the conduct of a
21 similar enterprise with similar aims;
- 22 (3) Act with due regard for the management, reputation and stability of the
23 issuer and the character of the particular investments being considered;
- 24 (4) Make investments for the exclusive purpose of providing benefits to
25 Participants and Participants' Beneficiaries;
- 26 (5) Give appropriate consideration to those facts and circumstances the
27 Board of Trustees knows or should know are relevant to the particular
28 investment or investment course of action involved, including the role
29 the investment or investment course of action plays in that portion of
30 the System's investments for which the Board of Trustees has
31 responsibility, and shall act accordingly. Appropriate consideration
32 shall include, but is not limited to, a determination by the Board of
33 Trustees that a particular investment or investment course of action is
34 reasonably designed as part of the investments of the System to further
35 the purposes of the System taking into consideration the risk of loss
36 and the opportunity for gain or other return associated with the
37 investment or investment course of action; and consideration of the
38 following factors as they relate to the investment or the investment
39 course of action:
 - 40 a. The diversification of the investments of the ~~system~~ System;
 - 41 b. The liquidity and current return of the investments of the
42 System relative to the anticipated cash flow requirements of the
43 System; and

- 1 c. The projected return of the investments of the System relative
 2 to the funding ~~objections~~ objectives of the System;
- 3 (6) Give appropriate consideration to investments which would enhance
 4 the general welfare of the City and its citizens if those investments
 5 offer the safety and rate of return comparable to other investments held
 6 by the System and available to the Board of Trustees at the time the
 7 investment decision is made;
- 8 (7) May use a portion of income of the System to defray the cost of
 9 investing, managing and protecting the assets of the System; and
- 10 (8) May utilize the services of Investment Fiduciaries to manage the assets
 11 of the System. These Investment Fiduciaries shall be subject to the
 12 terms, conditions, and limitations provided in this section and any
 13 limitations as set forth by the Board of Trustees.

14 TITLE IX. RESTRICTIONS.

15
 16
 17 Sec. 51. **Restrictions.** Notwithstanding any provision of this act to the
 18 contrary:

- 19 (1) No part of the funds contributed to the Retirement System pursuant to
 20 this act, or the income thereon, may be used for, or diverted to,
 21 purposes other than for the exclusive benefit of Participants of the
 22 Retirement System.
- 23 (2) Upon termination of the Retirement System or upon complete
 24 discontinuance of contributions to the Retirement System, the rights of
 25 all Participants of the Retirement System to benefits accrued to the
 26 date of the termination or discontinuance, to the extent then funded,
 27 are nonforfeitable.
- 28 (3) Forfeitures under the Retirement System may not be applied to
 29 increase the benefits that any Participant would otherwise receive
 30 under the Retirement System.
- 31 (4) Notwithstanding any provision of the Retirement System to the
 32 contrary, the maximum annual benefit payable in the form of a straight
 33 life annuity from the Retirement System on behalf of a Participant,
 34 when combined with any benefits from another qualified benefit plan
 35 maintained by the City, shall not exceed the amount as provided in this
 36 section. If the normal form of payment is other than a straight life
 37 annuity or a qualified joint and survivor annuity, the amount so
 38 determined hereunder shall be adjusted on an actuarially equivalent
 39 basis to reflect such other payment form.

40 If a Participant has completed 10 or more years of service, the maximum annual benefit
 41 payable in accordance with this subdivision (4) shall be the lesser of a. and b. below:

- 42 a. Ninety thousand dollars (\$90,000) (or, beginning January 1,
 43 1988), such larger dollar amount as the Commissioner of
 44 Internal Revenue may prescribe. Such amount shall be the

1 maximum annual benefit pursuant to this subdivision a. for that
2 calendar year and shall apply to the limitation year ending with
3 or within that calendar year.

- 4 b. The average annual Compensation the Participant received from
5 the City during the three consecutive calendar years which
6 would produce the highest such average.

7 If a Participant has completed less than 10 years of service, the maximum annual benefit
8 payable in accordance with this subdivision (4) shall be the lesser of subdivisions a. and
9 b. above, multiplied by the ratio that the Participant's actual number of years of service
10 bears to 10.

11 If the payment of a benefit to a Participant begins after he attains age 65, the
12 maximum benefit shall be actuarially adjusted to that amount that, if paid in the same
13 form and beginning at the same time as the benefit, would be the actuarial equivalent of
14 the maximum benefit that was payable in the normal form of retirement allowance
15 beginning on the first day of the month coincident with or next following the
16 Participant's attainment of age 65.

17 If the payment of a benefit to a Participant begins before he attains age 62, the
18 maximum benefit shall be actuarially adjusted to that amount which, if paid in the same
19 form and beginning at the same time as his benefit, would be the actuarial equivalent of
20 the maximum benefit payable in the normal form of retirement allowance beginning on
21 the first day of the month coincident with or next following his attaining the age of 62.
22 The reductions required by this paragraph shall in no event reduce the limitation in this
23 subdivision a. below seventy-five thousand dollars (\$75,000), if the benefit begins on or
24 after the Participant's attainment of age 55 or the actuarial equivalent of the seventy-five
25 thousand dollars (\$75,000) benefit limitation for age 55, if the benefit begins prior to
26 such age.

27 For purposes of this subdivision (4), if benefits begin before age 62, the maximum
28 annual benefit payable shall be adjusted by an interest rate assumption not less than the
29 greater of five percent (5%) or the rate specified in the Retirement System. For
30 purposes of this subdivision (4), in addition to the above limitations, if a Participant is a
31 Qualified Participant as defined in Title 1, Section 2 (17a) of this act, the actuarial
32 reduction to the maximum benefit payable for benefits that begin prior to the attainment
33 of age 55 shall not be reduced to an amount less than fifty thousand dollars (\$50,000). If
34 payment of a Participant's benefit begins after age 65, the maximum annual benefit
35 payable shall be adjusted by an interest rate assumption not greater than the lesser of
36 five percent (5%) or the rate specified in the Retirement System.

37 In the event a Participant is covered by one or more defined benefit plans maintained
38 by the City, all such plans shall be aggregated in determining whether the maximum
39 benefit limitations hereunder have been met. Further, the maximum retirement
40 allowance as noted above may be decreased as determined necessary by the City to
41 ensure that all plans will remain qualified under the Internal Revenue Code of 1986, as
42 amended from time to time.

43 In addition to the other limitations set forth in the Retirement System and
44 notwithstanding any other provisions of the Retirement System, the Accrued Benefit,

1 including the right to any optional benefit provided in the Retirement System (and all
2 other defined benefit plans required to be aggregated with the Retirement System under
3 the provisions of Section 415 of the Internal Revenue Code of 1986, as amended from
4 time to time), shall not increase to an amount in excess of the amount permitted under
5 Section 415 of the Internal Revenue Code of 1986, as amended from time to time.

6 (5) Any benefit payable to a Participant pursuant to Section 4 of this act
7 shall commence not later than the April 1 immediately following the
8 calendar year in which the Participant attains age 70 1/2 or, if later, the
9 April 1 immediately following the calendar year in which the
10 Participant terminates service. Additionally, the distribution of any
11 such benefit must satisfy the minimum distribution requirements set
12 forth in this paragraph and must be consistent with Treasury
13 Regulations, as of the required beginning date. The minimum
14 distribution for a calendar year equals the Participant's nonforfeitable
15 Accrued Benefit at the beginning of the year divided by the
16 Participant's life expectancy or, if applicable, the joint and last survivor
17 expectancy of the participant and his Designated Beneficiary. The
18 minimum distribution shall be computed by using the life expectancy
19 multiples under Treasury Regulation 1.72-9. The minimum
20 distribution for a calendar year subsequent to the first calendar year for
21 which a minimum distribution is required may be computed by
22 redetermining the applicable life expectancy. However, there shall be
23 no redetermination of the joint life and last survivor expectancy of the
24 Participant and a nonspouse Designated Beneficiary in a manner which
25 takes into account any adjustment to a life expectancy other than the
26 Participant's life expectancy. A distribution to the Participant in the
27 form of a life annuity, joint and survivor annuity, or an annuity over a
28 fixed period will satisfy the minimum distribution requirements of this
29 paragraph if the method of distribution provides non-increasing
30 payments or otherwise satisfies Treasury Regulations. If the
31 Participant dies after the payment of his benefit has commenced, the
32 death benefit provided by this act shall be paid over a period which
33 does not exceed the payment period which had commenced. If a
34 Participant dies prior to the time the payment of his benefit
35 commences, the death benefit provided by this act shall be paid over a
36 period not exceeding: (i) five years after the date of the Participant's
37 death; or (ii) if the Beneficiary is a Designated Beneficiary, over the
38 Designated Beneficiary's life or life expectancy. No payment of
39 benefit over a period described in (ii) shall be permitted, unless the
40 payment of such benefit to the Designated Beneficiary will commence
41 no later than one year after the date of the Participant's death, or, if
42 later, and the Designated Beneficiary is the Participant's surviving
43 spouse, the date the Participant would have attained age 70 1/2. The
44 life expectancy multiples under Treasury Regulation 1.72-9 shall be

1 used for purposes of applying this paragraph. The life expectancy of a
2 Participant's surviving spouse may be recalculated not more frequently
3 than annually, but the life expectancy of a nonspouse Designated
4 Beneficiary may not be recalculated after the commencement of
5 payment of benefits to the Designated Beneficiary. Any amount paid
6 to a Participant's child, which becomes payable to the Participant's
7 surviving spouse upon the child's attaining the age of majority, shall be
8 treated as paid to the Participant's surviving spouse for purposes of
9 applying this paragraph.
10

11 TITLE X. MISCELLANEOUS. 12

13 Sec. 52. **Liabilities of Trustees.** No member of the Board of Trustees shall
14 be personally liable by reason of his service as a Trustee for any acts performed by him
15 as a Trustee, except for malfeasance in office. Except for costs or expenses incurred
16 because of Trustee malfeasance, the System shall indemnify each Trustee for any and
17 all costs or expenses incurred by that Trustee as a result of acts performed as a Trustee,
18 including all insurance deductibles, copayments, and amounts exceeding insurance
19 policy limits.

20 Sec. 53. **Assignments Prohibited.** The right of a Member to any benefits
21 payable or reimbursement of any contributions, and any other right accrued or accruing
22 to any person pursuant to the provisions of this act, and any monies belonging to the
23 Retirement System shall not be subject to execution, garnishment, attachment, the
24 operation of bankruptcy or insolvency law, or any other process of law whatsoever, and
25 shall be unassignable except as is specifically authorized by statute. If a Member is
26 covered under a group insurance or prepayment plan participated in by the City, and
27 should he be permitted to, and elect to, continue such coverage as a Retiree, he may
28 authorize the Board of Trustees to have deducted from his monthly retirement benefits
29 the payments required of him to continue coverage under such group insurance or
30 prepayment plan.

31 Sec. 54. **Errors.** Should any change in the records result in any person
32 receiving from the Retirement System more or less than he would have been entitled to
33 receive had the records been correct, the Board of Trustees shall correct such error, and
34 as far as practicable shall adjust the payment in such manner that the Actuarial
35 Equivalent of the benefit to which the said person was correctly entitled shall be paid.

36 Sec. 55. **Protection Against Fraud.** Whoever with intent to deceive shall
37 make any statements and/or reports required under this act which are untrue, or shall
38 falsify or permit to be falsified any records of the Retirement System, or who shall
39 otherwise violate, with intent to deceive, any of the provisions of this act, shall be
40 prosecuted to the fullest extent of the law.

41 The Charlotte Firefighters' Retirement System shall have the right of setoff for any
42 claim arising from embezzlement or by fraud of a Participant.

43 Sec. 56. Repealed by Section 17 of Chapter 248 of the 1989 Session Laws.

1 Sec. 57. **Laws Inconsistent Repealed.** All laws and clauses of law
2 pertaining to the Charlotte Firefighters' Retirement System that are in conflict with the
3 provisions of this act are hereby revoked.

4 Sec. 58. **Savings Provisions.** If any section or part of this act is for any
5 reason held to be invalid or unconstitutional, such holding shall not be construed as
6 affecting the validity of the remaining sections of this act or the act in its entirety; it
7 being the legislative intent that this act shall stand notwithstanding the invalidity of any
8 section or part of a section.

9 Sec. 59. This act shall apply to the City of Charlotte only."

10 Sec. 2. None of the provisions of this act shall create an additional liability
11 for the Charlotte Firefighters' Retirement System unless sufficient assets are available to
12 pay for the liability.

13 Sec. 3. This act becomes effective July 1, 1992.