

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1183

Short Title: Amend Fire/Rescue Pension Fund.

(Public)

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Sponsors: Senator Block.

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Referred to: Pensions and Retirement.

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June 3, 1992

A BILL TO BE ENTITLED

AN ACT TO INCLUDE AUXILIARY POLICE AND SPECIAL DEPUTIES IN THE  
FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-86-1 reads as rewritten:

**"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.**

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving fire fighting and life saving techniques, of increasing the potential of fire departments, rescue squads, auxiliary police departments, special deputy sheriff programs, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, fire fighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, auxiliary police departments, special deputy sheriff programs, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire ~~protection and protection, rescue squads' activity~~ activity, and the contributions of ~~auxiliary police officers and special deputy sheriffs,~~ and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by ~~'eligible firemen and firemen, rescue squad workers,'~~ workers, auxiliary police

1 officers, and special deputy sheriffs' as defined by this Article, there is created in this  
2 State a fund to be known, and designated as 'The North Carolina Firemen's and Rescue  
3 Squad Workers' Pension Fund' to be administered as provided in this Article.

4 The North Carolina Firemen's and Rescue Squad Workers' Pension Fund is  
5 established to provide pension allowances and other benefits for eligible ~~firemen~~ and  
6 firemen, rescue squad workers-workers, auxiliary police officers, and special deputy  
7 sheriffs in the State who elect to become members of the fund. The board of trustees  
8 created by this Article shall have authority to administer the fund and shall make  
9 necessary rules and regulations to carry out the provisions of this Article."

10 Sec. 2. Article 86 of Chapter 58 of the General Statutes is amended by  
11 adding three new sections to read:

12 **"§ 58-86-26. 'Eligible auxiliary police officer' defined; determination and**  
13 **certification of eligibility.**

14 'Eligible auxiliary police officer' means any duly appointed and sworn member of an  
15 auxiliary police department organized pursuant to G.S. 160A-282 or a joint county and  
16 city auxiliary police department organized pursuant to G.S. 160A-283 who has  
17 performed duties on behalf of the city pursuant to orders or instructions of the chief of  
18 police of the city in the last calendar year.

19 Each eligible auxiliary police officer must file a roster certified by the chief of police  
20 of the city with the State Auditor by January 1 of each calendar year.

21 **"§ 58-86-27. 'Eligible special deputy sheriff' defined; determination and**  
22 **certification of eligibility.**

23 'Eligible special deputy sheriff' means any person deputized by the sheriff of the  
24 county as a special deputy sheriff or a person serving as a volunteer law enforcement  
25 officer at the request of the sheriff and under his authority who has performed duties on  
26 behalf of the county pursuant to orders or instructions of the sheriff in the last calendar  
27 year. Each eligible special deputy sheriff must file a roster certified by the sheriff of the  
28 county with the State Auditor by January 1 of each calendar year.

29 **"§ 58-86-36. Auxiliary police officers' and special deputy sheriffs' application for**  
30 **membership in fund; monthly payments by members; payments credited**  
31 **to separate accounts of members.**

32 Those auxiliary police officers and special deputy sheriffs who are eligible pursuant  
33 to G.S. 58-86-26 and G.S. 58-86-27 may make application for membership to the board.  
34 Each auxiliary police officer or special deputy sheriff upon becoming a member of the  
35 fund shall pay the director of the fund the sum of five dollars (\$5.00) per month. The  
36 monthly payments shall be credited to the separate account of the member and shall be  
37 kept by the custodian so it is available for payment on withdrawal from membership or  
38 retirement."

39 Sec. 3. G.S. 58-86-55 reads as rewritten:

40 **"§ 58-86-55. Monthly pensions upon retirement.**

41 Any member who has served 20 years as an ~~'eligible fireman' or 'fireman'~~, 'eligible  
42 rescue squad worker-worker', eligible auxiliary police officer', or 'eligible special deputy  
43 sheriff' in the State of North Carolina, as provided in G.S. ~~58-86-25 and G.S. 58-86-25,~~  
44 58-86-26, 58-86-27, and 58-86-30, and who has attained the age of 55 years is entitled

1 to be paid a monthly pension from this fund. The monthly pension shall be in the  
2 amount of one hundred dollars (\$100.00) per month. Any retired fireman receiving a  
3 pension of fifty dollars (\$50.00) per month shall, effective July 1, 1981, receive a  
4 pension of one hundred dollars (\$100.00) per month.

5 Members shall pay five dollars (\$5.00) per month as required by G.S. ~~58-86-35~~ and  
6 ~~G.S. 58-86-35, 58-86-36, and 58-86-40~~ for a period of no longer than 20 years. No  
7 'eligible rescue squad member' shall receive a pension prior to July 1, 1983. No person  
8 shall be entitled to a pension hereunder until his official duties as a fireman or rescue  
9 squad worker for which he is paid compensation shall have been terminated and he shall  
10 have retired as such according to standards or rules fixed by the board of trustees.

11 Any member who is totally and permanently disabled while in the discharge of his  
12 official duties as a result of bodily injuries sustained or as a result of extreme exercise or  
13 extreme activity experienced in the course and scope of his official duties and who  
14 leaves the fire or rescue squad ~~service~~service, auxiliary police force, or service as  
15 special deputy sheriff because of this disability shall be entitled to be paid from the fund  
16 a monthly benefit in an amount of one hundred dollars (\$100.00) per month beginning  
17 the first month after his fifty-fifth birthday. All applications for disability are subject to  
18 the approval of the board who may appoint physicians to examine and evaluate the  
19 disabled member prior to approval of his application, and annually thereafter. Any  
20 disabled member shall not be required to make the monthly payment of five dollars  
21 (\$5.00) as required by G.S. ~~58-86-35~~ and ~~G.S. 58-86-35, 58-86-36, and 58-86-40~~.

22 Any member who is totally and permanently disabled for any cause, other than line  
23 of duty, who leaves the fire or rescue squad ~~service~~service, auxiliary police force, or  
24 service as special deputy sheriff because of this disability and who has at least 10 years  
25 of service with the pension fund, may be permitted to continue making a monthly  
26 contribution of five dollars (\$5.00) to the fund until he has paid into the fund the sum of  
27 one thousand two hundred dollars (\$1,200). The member shall upon attaining the age of  
28 fifty-five years be entitled to receive a pension as provided by this section. All  
29 applications for disability are subject to the approval of the board who may appoint  
30 physicians to examine and evaluate the disabled member prior to approval of his  
31 application annually thereafter.

32 Any member who, because his residence is annexed by a city under Part 2 or Part 3  
33 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed  
34 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A  
35 of the General Statutes, and because of such annexation is unable to perform as a  
36 fireman of any status, and if the member has at least 10 years of service with the  
37 pension fund, may be permitted to continue making a monthly contribution of five  
38 dollars (\$5.00) to the fund until he has paid into the fund the sum of one thousand two  
39 hundred dollars (\$1,200). The member upon attaining the age of 55 years and  
40 completion of such contributions shall be entitled to receive a pension as provided by  
41 this section. Any application to make monthly contributions under this section shall be  
42 subject to a finding of eligibility by the Board of Trustees upon application of the  
43 member.

1 The pensions provided shall be in addition to all other pensions or benefits under any  
2 other statutes of the State of North Carolina or the United States, notwithstanding any  
3 exclusionary provisions of other pensions or retirement systems provided by law."

4 Sec. 4. G.S 58-86-60 reads as rewritten:

5 **"§ 58-86-60. Payments in lump sums.**

6 The board shall direct payment in lump sums from the fund in the following cases:

- 7 (1) To any ~~fireman or fireman~~, rescue squad worker-worker, auxiliary  
8 police officer, or special deputy sheriff upon the attaining of the age of  
9 55 years, who, for any reason, is not qualified to receive the monthly  
10 retirement pension and who was enrolled as a member of the fund, an  
11 amount equal to the amount paid into the fund by him. This provision  
12 shall not be construed to preclude any active ~~fireman or fireman~~, rescue  
13 squad worker-worker, auxiliary police officer, or special deputy sheriff  
14 from completing the requisite number of years of active service after  
15 attaining the age of 55 years necessary to entitle him to the pension.
- 16 (2) If any ~~fireman or fireman~~, rescue squad worker-worker, auxiliary police  
17 officer, or special deputy sheriff dies before attaining the age at which  
18 a pension is payable to him under the provisions of this Article, there  
19 shall be paid to his widow, or if there be no widow, to the person  
20 responsible for his child or children, or if there be no widow or  
21 children, then to his heirs at law as may be determined by the board or  
22 to his estate, if it is administered and there are no heirs, an amount  
23 equal to the amount paid into the fund by the said ~~fireman or fireman~~,  
24 rescue squad worker-worker, auxiliary police officer, or special deputy  
25 sheriff.
- 26 (3) If any ~~fireman or fireman~~, rescue squad worker-worker, auxiliary police  
27 officer, or special deputy sheriff dies after beginning to receive the  
28 pension payable to him by this Article, and before receiving an amount  
29 equal to the amount paid into the fund by him, there shall be paid to  
30 his widow, or if there be no widow, then to the person responsible for  
31 his child or children, or if there be no widow or children, then to his  
32 heirs at law as may be determined by the board or to his estate, if it  
33 is administered and there are no heirs, an amount equal to the difference  
34 between the amount paid into the fund by the said ~~fireman or fireman~~,  
35 rescue squad worker-worker, auxiliary police officer, or special deputy  
36 sheriff and the amount received by him as a pensioner.
- 37 (4) Any member withdrawing from the fund shall, upon proper  
38 application, be paid all moneys the individual contributed to the fund  
39 without accumulated earnings on the payments after the time they  
40 were made less an administrative fee equal to the lesser of the amount  
41 the individual contributed to the fund or twenty-five dollars (\$25.00).  
42 The administrative fees collected by the fund shall be retained by the  
43 Board to defray administrative expenses, including salaries.  
44 Notwithstanding the foregoing, if any person, firm, corporation, or

1 other entity has made contributions on behalf of a member and that  
 2 member withdraws from the fund, the person, firm, corporation, or  
 3 other entity shall be entitled to a refund equal to the amount of  
 4 contributions made by them after the Board has been notified of the  
 5 contributor's desire to be refunded its contributions upon the member's  
 6 withdrawal. Any refunds to a contributor other than a member shall  
 7 also be subject to the twenty-five dollar (\$25.00) administrative fee. If  
 8 a refund is to be shared by a member and another party the  
 9 administrative fee shall be applied to each portion on a pro rata basis."

10 Sec. 5. G.S. 58-86-75 reads as rewritten:

11 **"§ 58-86-75. Determination of creditable service; information furnished by**  
 12 **applicants for membership.**

13 The board shall determine by appropriate rules and regulations the number of years'  
 14 credit for service of ~~firemen and firemen~~, rescue squad ~~workers-workers~~, auxiliary police  
 15 officers, or special deputy sheriffs. Firemen and Firemen, rescue squad workers-workers,  
 16 auxiliary police officers, and special deputy sheriffs who are now serving as such shall  
 17 furnish the board with information upon applying for membership as to previous  
 18 service. Notwithstanding any other provisions of this Article, the Board may grant  
 19 qualified prior service credits to eligible ~~firemen and firemen~~, rescue squad ~~workers~~  
 20 workers, auxiliary police officers, and special deputy sheriffs under such terms and  
 21 conditions that the Board may adopt when the Board determines that an eligible ~~fireman~~  
 22 ~~or fireman~~, rescue squad ~~worker-worker~~, auxiliary police officer, or special deputy  
 23 sheriff has been denied such service credits through no fault of his own."

24 Sec. 6. G.S. 58-86-80 reads as rewritten:

25 **"§ 58-86-80. Length of service not affected by serving in more than one department**  
 26 **or squad; transfer from one department or squad to another.**

27 A ~~fireman's or fireman's~~, rescue squad ~~worker's-worker's~~, auxiliary police officer's, or  
 28 special deputy sheriff's length of service shall not be affected by the fact that he may  
 29 have served with more than one department or squad, and upon transfer from one  
 30 department or squad to another, notice of the fact shall be given to the board."

31 Sec. 7. G.S. 58-86-90 reads as rewritten:

32 **"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

33 Except for the applications of the provisions of G.S. 110-136, and in connection with  
 34 a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not  
 35 subject to attachment, garnishments or judgments against the ~~fireman or fireman~~, rescue  
 36 squad worker-worker, auxiliary police officer, or special deputy sheriff entitled to them,  
 37 nor are any rights in the fund or the pensions or benefits assignable."

38 Sec. 8. This act becomes effective July 1, 1992.