

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 351
SENATE BILL 344

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN
IN THE CITY OF FAYETTEVILLE AND TO MODIFY THE APPLICATION OF
G.S. 118-5, 118-6, AND 118-7 TO THE CITY OF FAYETTEVILLE.

The General Assembly of North Carolina do enact:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Fayetteville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Fayetteville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such Fund separate from the books of account of the Firemen's Local Relief Fund of the City of Fayetteville, hereinafter called the Local 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. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Fayetteville shall:

(a) prior to January 1, 1970, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of ten thousand dollars (\$10,000.00);

(b) in each subsequent calendar year, and within thirty (30) days after receipt from the City Treasurer of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer to the Supplemental Retirement Fund such funds;

(c) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than ten thousand dollars (\$10,000.00), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of ten thousand dollars (\$10,000.00);

(d) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the income earned in the preceding calendar year upon investments of funds belonging to the Supplemental Retirement Fund and upon investments of funds belonging to the Local Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this Act.

Sec. 3. Supplemental Retirement Benefits.

(a) Each retired fireman of the City who has retired with twenty (20) years service or more as a City fireman shall be entitled to and shall receive in each calendar

year following the calendar year in which he retires an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the City, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) Any former fireman of the City who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this Section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within thirty (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 such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was 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 was capable of performing; and

(4) that, since the preceding January 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; provided, that the Board of Trustees, after initially making the findings of fact specified in (1), (2), and (3) of this subsection, need not specify such findings in subsequent calendar years.

Sec. 4. Intention. It is the intention of Section 3 of this Act to authorize the disbursement as supplemental retirement benefits only of the income derived in any calendar year from the investments of funds belonging to the Supplemental Retirement Fund and to the Local Relief Fund. It is the intention of Section 2 of this Act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsection (a) and (b) thereof or as a gift, grant, bequest, or donation to such Fund shall ever be disbursed except as and when required by subsection (c) thereof.

Sec. 5. Investment of Funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 6. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief 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; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums on the bond of the Treasurer.

Sec. 8. If any provisions of this Act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which 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 hereby repealed.

Sec. 10. This Act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1969.