

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1177
HOUSE BILL 2123

AN ACT TO AUTHORIZE SUPPLEMENTAL COMPENSATION FOR FULL-TIME EMPLOYEES OF THE CITY OF FAYETTEVILLE PERMANENTLY DISABLED AS THE RESULT OF CRIMINAL ASSAULT IN PERFORMANCE OF OFFICIAL DUTY.

The General Assembly of North Carolina enacts:

Section 1. This act shall apply only to the full-time employees of the City of Fayetteville, and the word "employee" as used in this act shall mean such employees of the City of Fayetteville.

Sec. 2. Whenever it is determined that any employee is injured as the result of a criminal assault committed upon him in the performance of official duty and that such injury resulted in the total, permanent disability of such employee, as herein defined, the City is authorized to pay such employee such sum which, together with all other compensation he shall receive under The Workmen's Compensation Act, disability benefits or other compensation provided by the employing governmental unit, will equal his regular monthly salary at the time of injury, subject to any increase or decrease in salary being paid by said City for the same duty from year to year.

Sec. 3. In addition to the salary compensation, the City is authorized to pay all medical expenses incurred by any employee determined to be eligible for benefits under this act, the payment of which is not otherwise provided for under The Workmen's Compensation Act, or insurance coverages participated in by said City. Such medical expenses shall be limited to those required for proper treatment of the injuries sustained by the employee and shall include drugs, hospital care, rehabilitation treatment and equipment, physicians' bills, and medical examinations. The City is not liable for any expenses paid by a third party who contributed to the injury of the employee in the event recovery is made by the employee for the same.

Sec. 4. Total disability as used in this act shall be construed to include any case wherein the employee has suffered the loss of both arms, or both legs or both eyes, or is rendered totally deaf; or has a total disability rating of 75 per cent or more due to loss of main bodily functions.

Sec. 5. Written application for benefits under this act shall be made by the injured employee to the Fayetteville City Council accompanied by a certification as to the nature and extent of disability by a licensed physician. The City Council may make a determination of eligibility and direct payment of benefits or may in its discretion refer the case to a Commission for determination. The Fayetteville City Council shall, in cases before that body, have a right to issue subpoenas for all witnesses and medical

records which it deems necessary to determine entitlement to compensation under this act.

Sec. 6. In its discretion, the Fayetteville City Council, may, by resolution, appoint a Law Enforcement Disability Commission of three members to make a determination of entitlement to compensation under the act, or eligibility for continuance of the same. At least one member of the Commission shall be a licensed physician. Such Commission shall serve for the term prescribed in the Resolution creating the Commission. The Commission shall have the right to issue subpoenas for all witnesses and medical records which it deems necessary to determine entitlement to compensation under this act. The City will furnish the Commission necessary personnel and equipment for taking and recording testimony and the maintenance of records of all its proceedings. In any proceeding of the Commission wherein evidence and testimony is received, the employee whose case is being considered will be given the opportunity to be present and be represented by a licensed attorney. The Commission will review any case referred to it by the attorney to determine eligibility for continuation of compensation. The Commission shall have full authority to promulgate all rules and regulations necessary to properly perform its function and to afford due process of law to each employee in the consideration of all hearings conducted. Upon conclusion of its deliberation such Commission shall file a written report of its findings and determination with the Fayetteville City Council, a copy of which shall be furnished the employee concerned. The determination of the appropriate Commission shall be final, subject only to judicial review.

Sec. 7. Any employee seeking benefits under this act shall waive patient and physician relationship and execute a written authorization for all medical records and statements of the attending physicians to be available to the City or the Disability Commission including all testimony, if any, to be given by any physician before the Commission. The employee shall also waive and release any other medical information of record at a hospital or other facility. The employee shall further be required to report to any doctor or other qualified medical examiner designated by the City or the Disability Commission, and failure to so report and submit to treatment or examination and to further cooperate shall preclude or terminate benefits under this act, upon a finding by the City or Commission that such failure to report and be examined as directed is without just cause or excuse on the part of the employee.

Sec. 8. In the event the employee is offered work at a lesser salary by the City, even though he is injured as hereinbefore set out, then the salary by said City shall be deducted from benefits allowed hereunder, so long as the employee works. Upon his being unable to work or upon involuntary resignation of said employment, all benefits awarded hereunder shall immediately be paid to the employee, unless terminated as hereinbefore set forth. Payments of medical expenses before or after the award shall not be deducted from the salary of the employee.

Sec. 9. All the provisions of this act shall be supplemental to and shall not in any way repeal, amend or rescind the Workmen's Compensation Act of the State of North Carolina.

Sec. 10. Wherever in this act the masculine gender appears, it is to be construed feminine in appropriate cases of female employees.

Sec. 11. This act shall apply only to the City of Fayetteville.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.