

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1029
SENATE BILL 225

AN ACT TO ESTABLISH THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD
WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 118, of the General Statutes is rewritten to read as follows:

"ARTICLE 3.

"North Carolina Firemen's and Rescue Squad Workers' Pension Fund.

"§ 118-18. 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, 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, 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 rescue squads' activity 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 rescue squad workers,' as defined by this Article, there is created in this State a fund to be known, and designated as 'The North Carolina Firemen's and Rescue Squad Workers' Pension Fund' to be administered as provided in this Article.

The North Carolina Firemen's and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible firemen and rescue squad workers in the State who elect to become members of the Fund. The Board of Trustees created by this Article shall have authority to administer the Fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"§ 118-19. Creation and membership of board of trustees; compensation. — There is created a board to be known as the 'Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund', hereinafter known as 'the Board'.

The Board shall consist of seven members:

- (1) The State Auditor, who shall act as chairman.
- (2) The State Insurance Commissioner.
- (3) The State Treasurer.
- (4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.

The members presently serving on the 'Board of Trustees of the Firemen's Pension Fund' shall continue to serve until the expiration of their terms. No member of the Board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the Board of Trustees.

"§ 118-20. Powers and duties of the Board. — The Board shall request appropriations out of the General Fund for administrative expenses and to provide for the financing of this Pension Fund, employ necessary clerical assistance, determine all applications for pensions, provide for the payment of pensions, make all necessary rules and regulations not inconsistent with law for the government of this Fund, prescribe rules and regulations of eligibility of persons to receive pensions, expend funds in accordance with the provisions of this Article, and generally exercise all other powers necessary for the administration of the Fund created by this Article.

"§ 118-21. Director. — There is created an office to be known as Director of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. He shall be named by the Board and shall serve at its pleasure. The Director shall be subject to the provisions of the State Personnel Act. The Director shall be bonded in such amount as may be determined by the Board, and he shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall be deposited by the State Treasurer into the Fund.

"§ 118-22. State Treasurer to be custodian of Fund; appropriations; contributions to Fund; expenditures. — The State Treasurer shall be the custodian of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General Assembly out of the General Fund to provide money for administrative expenses shall be handled in the same manner as any other General Fund appropriation. One fourth of the appropriation made out of the General Fund to provide for the financing of the Pension Fund shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. There shall be set up in the State Treasurer's Office a special fund to be known as the North Carolina Firemen's and Rescue Squad Workers' Pension Fund, and all contributions made by the members of this Pension Fund shall be deposited in the special fund. All expenditures for refunds, investments or benefits shall be in the same manner as expenditures of other special funds.

"§ 118-23. 'Eligible Firemen' defined; determination and certification of volunteers meeting qualifications. — 'Eligible firemen' shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class '9' or class 'A' and 'AA' departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to G.S. 58-131.1 or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. 'Eligible firemen' shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Each department shall annually determine and report the names of those firemen meeting the eligibility qualifications to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the Board.

"§ 118-24. 'Eligible rescue squad worker defined; determination and certification of eligibility. — 'Eligible rescue squad worker' means any member of a rescue squad who is

eligible for membership in the North Carolina Association of Rescue Squads, Inc., and who has attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad worker eligible for membership in the North Carolina Association of Rescue Squads, Inc., must file a roster certified by the secretary of the association of those rescue squad workers meeting the association requirements with the State Auditor by January 1 of each calendar year.

'Eligible rescue squad worker' does not mean 'eligible fireman' as defined by G.S. 118-23, nor may an 'eligible rescue squad worker' qualify also as an 'eligible fireman' in order to receive double benefits available under this Article.

"§ 118-25. Firemen's application for membership in Fund; monthly payments by members; payments credited to separate accounts of members. — Those firemen who are eligible pursuant to G.S. 118-23 may make application for membership to the Board. Each fireman upon becoming a member of the Fund shall pay the Director of the Fund the sum of five dollars (\$5.00) per month. The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

"§ 118-26. Rescue Squad Worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members. — Those rescue squad workers eligible pursuant to G.S. 118-24 may make application to the Board for membership. All persons who subsequently become rescue squad workers may make application for membership. Each eligible rescue squad worker upon becoming a member shall pay the Director of the Fund the sum of five dollars (\$5.00) per month. A rescue squad worker who, on the date of the establishment of the Fund, has service as a rescue squad worker certified by the Department of State Auditor may make a lump sum payment of five dollars (\$5.00) per month for each month of service as an eligible rescue squad worker as defined by G.S. 118-24, on or before July 1, 1983, for as many as 180 months together with interest at an annual rate of six percent (6%).

The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

"§ 118-27. Monthly pensions upon retirement. — Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 118-23 and G.S. 118-24, and who has attained the age of 55 years is entitled to be paid a monthly pension from this Fund. The monthly pension shall be in the amount of seventy-five dollars (\$75.00) per month. Any retired fireman receiving a pension of fifty dollars (\$50.00) per month shall, effective July 1, 1981, receive a pension of seventy-five dollars (\$75.00) per month.

Members shall pay five dollars (\$5.00) per month as required by G.S. 118-25 and G.S. 118-26 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1986. No person shall be entitled to a pension hereunder until his official duties as a fireman or rescue squad worker shall have been terminated and he shall have retired as such according to standards or rules fixed by the Board of Trustees.

Any member who is totally and permanently disabled while in the discharge of his official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of his official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the Fund a monthly benefit in an amount of seventy-five dollars (\$75.00) per month beginning the first month after his fifty-fifth birthday. All applications for disability are subject to the approval of the Board who may appoint physicians to examine and evaluate the disabled member prior to approval of his application, and annually thereafter. Any disabled member shall not be required

to make the monthly payment of five dollars (\$5.00) as required by G.S. 118-25 and G.S. 118-26.

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

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

"§ 118-28. Payments in lump sums. — The Board shall direct payment in lump sums from the Fund in the following cases:

- (1) To any fireman or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the Fund, an amount equal to the amount paid into the Fund by him. This provision shall not be construed to preclude any active fireman or rescue squad worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle him to the pension.
- (2) If any fireman or rescue squad worker dies before attaining the age at which a pension is payable to him under the provisions of this Article, there shall be paid to his widow, or if there be no widow, to the person responsible for his child or children, or if there be no widow or children, then to his heirs at law as may be determined by the Board or to his estate, if it is administered and there are no heirs, an amount equal to the amount paid into the Fund by the said fireman or rescue squad worker.
- (3) If any fireman or rescue squad worker dies after beginning to receive the pension payable to him by this Article, and before receiving an amount equal to the amount paid into the Fund by him, there shall be paid to his widow, or if there be no widow, then to the person responsible for his child or children, or if there be no widow or children, then to his heirs at law as may be determined by the Board or to his estate, if it is administered and there are no heirs, an amount equal to the difference between the amount paid into the Fund by the said fireman or rescue squad worker and the amount received by him as a pensioner.
- (4) Any member withdrawing from the Fund shall, upon proper application, be paid all moneys the individual contributed to the Fund, provided, if all or any part of the moneys contributed to the Fund with respect to the member shall have been paid by any person, firm or corporation other than the member and notification of such action shall have been made to the Board at the time of said contribution and each of them, then, upon proper application, by the other person, firm or corporation, the moneys contributed to the Fund shall be paid to the other person, firm or corporation originally making the contribution, upon the withdrawal of the member.

"§ 118-29. Pro rata reduction of benefits when Fund insufficient to pay in full. — If, for any reason, the Fund created and made available for any purpose covered by this Article shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim

shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

"§ 118-30. Provisions subject to future legislative change. — These pensions shall be subject to future legislative change or revision, and no member of the Fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ 118-31. Determination of creditable service; information furnished by applicants for membership. — The Board shall determine by appropriate rules and regulations the number of years' credit for service of firemen and rescue squad workers. Firemen and rescue squad workers who are now serving as such shall furnish the Board with information upon applying for membership as to previous service.

"§ 118-32. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another. — A fireman's or rescue squad worker's length of service shall not be affected by the fact that he may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the Board.

"§ 118-33. Effect of member being six months delinquent in making monthly payments. — Any member who becomes six months delinquent in making monthly payments required by G.S. 118-25 and G.S. 118-26 of this Article by the tenth of the month with respect to which the payment shall be due shall forfeit his membership in the Fund.

"§ 118-34. Exemptions of pensions from attachment; rights nonassignable. — The pensions provided are not subject to attachment, garnishments or judgments against the fireman or rescue squad worker entitled to them, nor are any rights in the Fund or the pensions or benefits assignable nor are the pensions subject to any State or municipal tax."

Sec. 2. The Fund established by Session Laws 1961 Chapter 980, G.S. 118-18 et seq., "The Firemen's Pension Fund" is made a part of the Fund established by this act as the "Firemen's and Rescue Squad Workers' Pension Fund."

Sec. 3. Article 3 of Chapter 143A is amended by adding a new section to read as follows:

"§ 143A-27A. North Carolina Firemen's and Rescue Squad Workers' Pension Fund; transfer. — The 'North Carolina Firemen's and Rescue Squad Workers' Pension Fund', as contained in Article 3 of Chapter 1 18 of the General Statutes is hereby transferred by a type II transfer to the Department of State Auditor."

Sec. 4. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.