

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 341
SENATE BILL 333

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

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Hendersonville, as established in accordance with G.S. 118-9, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Hendersonville Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for this fund separate from the books of account of the Firemen's Local Relief Fund of the City of Hendersonville, 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 Hendersonville shall:

- (1) prior to July 1, 1981, 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);
- (2) in each subsequent calendar year, and within 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 these funds;
- (3) at any time within six months when the amount of funds in the local relief fund are, by reason of disbursements authorized by G.S. 118-7, less than ten thousand dollars (\$10,000), 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);
- (4) 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 Local Firemen's 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 previously retired with 30 years' service, or more, as a city fireman is entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits. In no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of nine hundred dollars (\$900.00), which amount is defined herein as a "share":

- (1) one share for each full year of service as a full-time and fully paid fireman of the city;
- (2) one-half (50%) of one share for each full year of service as a volunteer fireman of the city;
- (3) the surviving spouse of a full-time or volunteer fireman, who dies after retirement from a full-time or a volunteer position is entitled to (a) one share for each full year of service that her deceased spouse served as a full-time and fully paid fireman of the city, or (b) one-half (50%) of one share for each full year of service that her deceased spouse served as a volunteer fireman of the city. This right of benefits payable to a surviving spouse shall continue for a maximum of 16 consecutive years. Each year of benefits drawn by the retired fireman prior to his death shall be counted as one of the maximum years permissible and the benefits payable to the surviving spouse shall be reduced accordingly;
- (4) if a full-time or volunteer fireman attains the age of 55 years and 20 years of service, and then retires, he, or his surviving spouse, is entitled to benefits equivalent to two-thirds (66-2/3%) of one share in conformance with Section 3(a)(1), (2) and (3) of this act. If retirement occurs at the age of 55 years and with more than 20 years of service, then the portion of the share to be paid shall be increased according to a mathematical formula established by the board of trustees. If retirement occurs at the age of 55 years and with 30 years or more of service, then full benefits shall be paid in accordance with these sections;
- (5) all benefits are payable on a quarterly basis.

(b) Any former fireman of the city, either full-time and fully paid or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to the 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 a fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within 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 that 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 remains unavailable 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.

The board of trustees, after initially making the findings of fact specified in subdivisions (1), (2), (3), (4) and (5) of this subsection, need not specify the findings in subsequent calendar years.

Sec. 4. Investment of funds. The board of trustees may invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds of the supplemental retirement fund in one or more investments. Investment in certificates of deposit or time deposits in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation unless the deposits or investments in shares are secured in the manner provided by G.S. 159-30.

Sec. 5. Acceptance of gifts. The board of trustees may accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement fund.

Sec. 6. 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. This bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay the premiums of the bond of the treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, this 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. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective July 1, 1981, and authorizes payments coming due on or after this date.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.