

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 506
HOUSE BILL 729

AN ACT TO TAX-SHELTER CONTRIBUTIONS TO THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM PURSUANT TO SECTION 414(H)(2) OF THE INTERNAL REVENUE CODE AND THEREBY INCREASE THE TAKE-HOME PAY OF EMPLOYEES OF THE FIRE DEPARTMENT OF THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 926 of the 1947 Session Laws, as amended, is further amended by adding the following new sections to read:

"Sec. 7.1. Restrictions. Notwithstanding any provision of this act to the contrary:

(a) No part of the funds contributed to the Retirement System pursuant to this act, or the income thereon, may be used for, or diverted to, purposes other than for the exclusive benefit of members of the Retirement System or their named beneficiaries.

(b) Upon termination of the Retirement System or upon complete discontinuance of contributions to the Retirement System, the rights of all members of the Retirement System to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(c) Forfeitures under the Retirement System may not be applied to increase the benefits that any member would otherwise receive under the Retirement System.

(d) Neither the benefits provided by the Retirement System nor the contributions to the Retirement System may exceed the limitations imposed by Section 415 of the Internal Revenue Code of 1954, as amended.

"Sec. 7.2. Pick-Up of Member Contributions. Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the City of Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1954, as amended, may elect to pick up and pay the contributions that would be payable by the members of the Retirement System under Section 5 of this act with respect to the service of the members after June 30, 1983.

The members' contributions picked up by the City of Charlotte shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the Retirement System. These contributions shall be credited to the fund created by this act and accumulated within the fund in a member's account that shall be separately established for the purpose of accounting for picked-up contributions.

Member contributions picked up by the City of Charlotte shall be payable from the same source of funds used for the payment of compensation to a member. A deduction

shall be made from a member's compensation equal to the amount of his contributions picked up by the City of Charlotte. This deduction, however, shall not reduce his compensation for purposes of the Retirement System. Picked-up contributions shall be transmitted to the Retirement System.

"Sec. 7.3. Conformity of System with Internal Revenue Code Requirements. The City of Charlotte may deviate from the provisions of this act to the extent necessary to make any changes in the system required by the Internal Revenue Service prior to its issuing a favorable determination letter under Section 401(a) and Section 501 (a) of the Internal Revenue Code of 1954, as amended, and as required by the Internal Revenue Service to maintain the qualified status of the Retirement System."

Sec. 2. Section 7.3 of Chapter 926 of the 1947 Session Laws as it appears in Section 1 of this act is effective upon ratification. The remainder of this act shall become effective on the date on which the Retirement System receives a favorable determination letter from the Internal Revenue Service approving the system as a qualified plan under Section 401(a) of the Internal Revenue Code of 1954, as amended, provided the letter is received before June 1, 1984. If a favorable determination letter is not received before June 1, 1984, this act is repealed on that date.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.