

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 159
HOUSE BILL 376

AN ACT TO PROVIDE A LOCAL SUPPLEMENTAL RETIREMENT BENEFIT
FUND FOR FIRE FIGHTERS IN THE TOWN OF CARY AND TO MODIFY THE
APPLICATION OF G.S. 118-5 AND G.S. 118-7.

The General Assembly of North Carolina enacts:

Section 1. Local Supplemental Retirement Benefit Fund Established. There is established a Local Supplemental Retirement Benefit Fund for the Fire Department of the Town of Cary to be known as the "Cary Local Firemen's Supplemental Retirement Benefit Fund", hereinafter referred to as "Local Supplemental Retirement Benefit Fund", and to be administered by a board composed of the members of the trustees of the Local Firemen's Relief Fund of the Town of Cary, established in accordance with G.S. 118-6.

Sec. 2. Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the Town of Cary shall as soon as practicable after July 1 of each year, but in no event later than October 1, transfer to the "Local Supplemental Retirement Benefit Fund" all income resulting from investments of funds belonging to the Cary Local Firemen's Relief Fund, 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 a Local Supplemental Retirement Benefit in accordance with Section 3 of this act.

Sec. 3. Determination of Benefits. The Board of Trustees shall:

- (1) Determine the total years of service by adding together all the completed years of service of all retired fire fighters;
- (2) Divide the earned income of the preceding calendar year by the total years of service as determined in (1) above. The answer constitutes an "equal share" for the preceding year's earned income; and
- (3) Compute each fire fighter's Local Supplemental Retirement Benefit for that year by multiplying his or her completed years of service times an "equal share".

Sec. 4. Supplemental Retirement Benefits.

- (a) Each retired fire fighter of the Town of Cary who has retired with 20 or more years of fire service as a fire fighter, and who has attained the age of 55 is entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a fire fighter; provided, in no event shall any retired fire fighter be entitled to or receive in any year an annual benefit in excess of one thousand two hundred dollars (\$1,200).

(b) Any fire fighter of the Town who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, is nevertheless entitled to benefits if the Board of Trustees makes the following written findings of facts:

- (1) That he or she initially retired from his or her position as fire fighter because of his or her inability, by reason of sickness or injury, to perform the normal duties of an active fire fighter; and
- (2) That, within 30 days prior to or following his or her initial retirement as a fire fighter, at least two physicians licensed to practice medicine in North Carolina certified that he or she was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fire fighter; and
- (3) That, at the time of his or her initial retirement as a fire fighter, there was not available to him or her in the fire department or any other department of the Town a position of employment the normal duties of which he or she was capable of performing.

Sec. 5. If, for any reason, the Fund is insufficient to pay in full any pension benefits, or other charges, then all benefits 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 benefit payment has been reduced.

Sec. 6. None of the provisions of this act shall create a liability for the Cary Local Firemen's Supplemental Retirement Benefit Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 7. If any provisions of this act shall be declared invalid by a court of competent jurisdiction, this invalidity shall not affect other provisions 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 repealed.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1985.