

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-88
SENATE BILL 99**

AN ACT TO ESTABLISH A DEFINITION OF FIREFIGHTER FOR PURPOSES OF THE LOCAL FIREFIGHTERS' RELIEF FUND, THE STATEWIDE FIREFIGHTERS' RELIEF FUND, THE STATE FIRE PROTECTION GRANT FUND, VOLUNTEER SAFETY WORKERS ASSISTANCE, AND THE RESCUE SQUAD WORKERS' RELIEF FUND; TO AMEND THE PROCESS FOR FILING CERTIFIED ROSTERS WITH THE NORTH CAROLINA STATE FIREMEN'S ASSOCIATION AND THE NORTH CAROLINA ASSOCIATION OF RESCUE AND EMERGENCY MEDICAL SERVICES, INC.; TO AMEND THE RESCUE SQUAD WORKERS' RELIEF FUND; TO AMEND THE LAW-ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS' AND CIVIL AIR PATROL MEMBERS' DEATH BENEFITS ACT; AND TO SPECIFY LOCAL GOVERNMENT AUTHORITY AS IT PERTAINS TO A FIRE DEPARTMENT BOARD AND PARTICIPATION IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-84-5 reads as rewritten:

"§ 58-84-5. Definitions.

The following definitions apply in Articles ~~84 through 88~~ 84, 85, 85A, 87, and 88 of this Chapter:

- (1) City. – A fire district.
- (2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so designated by the governing body of the fire district.
- (3) Fire district. – Any political subdivision of the State or federally recognized Native American tribe within the State that meets all of the following conditions:
 - a. It has an organized fire department under the control of its governing body.
 - b. Its fire department has apparatus and equipment that is in serviceable condition for fire duty and is valued at one thousand dollars (\$1,000) or more.
 - c. It is rated and certified by the Commissioner.
 - d. Its response area has been approved by the local municipal government or, if there is no local municipal government, by the local board of county commissioners.
- (3a) Firefighter or Fireman. – Any person who meets all of the following requirements:
 - a. Is a volunteer, employee, contractor, or member of a rated and certified fire department.
 - b. Performs work or training connected with fire protection, fire prevention, fire control, fire education, fire inspection, fire investigation, rescue, Emergency Medical Services, special operations, or performs the statutory duties and responsibilities of the fire chief as set forth in G.S. 160A-292.
 - c. Performs work or training at the direction of the fire chief.
 - d. Is included on the certified roster submitted to the North Carolina State Firemen's Association pursuant to G.S. 58-86-25.
- (4) Town. – A fire district."



SECTION 2. G.S. 58-86-10 reads as rewritten:

"§ 58-86-10. Powers and duties of the board.

The Board of Trustees of the North Carolina Local Governmental Employees' Retirement System shall administer the Pension Fund. 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 governance 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. Should any change or error due to the submission of fraudulent or incorrect information result in any member or beneficiary receiving from the Retirement System more or less than he or she would have been entitled to receive had their records been correct, the Board of Trustees shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid."

SECTION 3. G.S. 58-86-25 reads as rewritten:

"§ 58-86-25. Determination and certification of eligible firefighters.

~~Eligible~~ For purposes of this Article, eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report a certified roster of the names of those firefighters meeting the eligibility qualifications of this Article to its respective governing body, which upon determination of the validity and accuracy of the ~~qualification~~ qualification, the department shall promptly ~~certify~~ submit the list to the North Carolina State Firemen's Association. Submission of such information by a department to the North Carolina State Firemen's Association constitutes a certification of its accuracy under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this Article to the State Treasurer by January 31 of each year. For the purposes of the preceding ~~sentence~~, sentences, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue squad worker" in order to receive double benefits available under this Article."

SECTION 4. G.S. 58-86-30 reads as rewritten:

"§ 58-86-30. Determination and certification of "eligible rescue squad worker."

Eligible rescue squad workers must attend at least 36 hours of training sessions in each calendar year. Each rescue or emergency medical services squad eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster certified by the secretary of the association of those rescue or emergency medical services squad workers meeting the requirements of this section with the State Treasurer by January 31 of each calendar year. Submission of such information by a department to the North Carolina Association of Rescue and Emergency Medical Services, Inc., constitutes a certification of its accuracy under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

An "eligible rescue squad worker" may not qualify also as an "eligible firefighter" in order to receive double benefits available under this Article."

SECTION 5. G.S. 58-88-5 reads as rewritten:

"§ 58-88-5. Rescue Squad Workers' Relief Fund; trustees; disbursement of funds.

(a) The "Rescue Squad Workers' Relief Fund" is created. It consists of the revenue credited to the Fund under G.S. 20-183.7(c) and shall be used for the purposes set forth in this Article.

(b) The Executive Committee of the Association shall be the Board of Trustees of the Fund. The Board shall consist of the Commander, Vice-Commander, Secretary-Treasurer, and two past Commanders of the Association. The Commander shall be the Chairman of the Board. The Commander, Vice-Commander, and Secretary-Treasurer shall appoint the two past Commanders of the Association, who shall serve at the pleasure of the appointing officers.

(c) The Commissioner of Insurance has exclusive control of the Fund and shall disburse revenue in the Fund to the Association only for the following purposes:

- (1) To safeguard any rescue or EMS worker in active service from financial loss, occasioned by sickness contracted or injury received while in the performance of his or her duties as a rescue or EMS worker.
- (2) To provide a reasonable support for those persons actually dependent upon the services of any rescue or EMS worker who may lose his or her life in the service of his or her town, county, city, or the State, either by accident or from disease contracted or injury received by reason of such service. The amount is to be determined according to the earning capacity of the deceased.
- (3) To award scholarships to children of members, deceased members or retired members in good standing, for the purpose of attending a two year or four year college or university, and for the purpose of attending a two year course of study at a community college or an accredited trade or technical school, any of which is located in the State of North Carolina. Continuation of the payment of educational benefits for children of active members shall be conditioned on the continuance of active membership in the rescue or EMS service by the parent or parents-parent, parents, legal guardian, or legal guardians.
- (4) To pay death benefits to those persons who were actually dependent upon any member killed in the line of duty.
- (4a) To pay additional benefits approved by the Board of Trustees of the Fund to rescue and EMS workers who are eligible pursuant to G.S. 58-88-10 and who are members of the Association.
- (5) Notwithstanding any other provision of law, no expenditures shall be made pursuant to subdivisions (1), (2), (3), (4), and (4a) of this subsection unless the Board has certified that the expenditures will not render the Fund financially unsound for the purpose of providing the benefits set forth in subdivisions (1), (2), (3), (4), and (4a). If, for any reason, funds made available for subdivisions (1), (2), (3), (4), and (4a) are insufficient to pay in full any benefit, the benefits pursuant to subdivisions (1), (2), (3), (4), and (4a) shall be reduced pro rata for as long as the amount of insufficient funds exists. No claims shall accrue with respect to any amount by which a benefit under subdivisions (1), (2), (3), (4), and (4a) has been reduced."

SECTION 6. G.S. 58-88-10 reads as rewritten:

"§ 58-88-10. Membership eligibility.

(a) Any member of a rescue squad or EMS service who is eligible for membership in the Association and who has attended a minimum of 36 hours of training ~~and meetings~~ in the last calendar year; and each rescue squad or EMS service whose members are eligible for membership in the Association who has filed a roster certifying to the Secretary-Treasurer who certifies to the Commissioner of Insurance by January 1 of each calendar year that all eligible members have met the requirements, shall be eligible for the Fund. Any eligible member who, in the actual discharge of his or her duties as rescue or EMS personnel, is (1) made sick by disease contracted or (2) becomes disabled, shall be entitled to the benefits from the Fund.

(b) Any organized rescue squad or EMS service in North Carolina holding itself ready for duty may, upon compliance with the requirements of the constitution and by-laws of the Association, be eligible for membership in the Fund.

(c) The line of duty entitling one to participate in the Fund shall be so construed as to mean actual rescue or EMS duty only."

SECTION 7. G.S. 58-88-25 reads as rewritten:

"§ 58-88-25. Application for benefits.

Applications for benefits from the Fund shall be made to the Secretary-Treasurer under the following conditions and procedure: ~~Within 30-180~~ days after the contracting of a disease or the occurrence of accident for which benefits are sought, the chief or chief officer of the local department shall notify the Secretary-Treasurer in writing that the person applying for benefits is a member of the Fund and request the necessary forms from the Secretary-Treasurer's office to be submitted for the benefits."

SECTION 8. G.S. 143-166.2 reads as rewritten:

"§ 143-166.2. Definitions.

(a) The term "dependent child" shall mean any unmarried child of the deceased officer, ~~fireman, firefighter,~~ rescue squad worker or senior member of the Civil Air Patrol whether natural, adopted, posthumously born or whether a child born out of wedlock as entitled to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon and receiving his chief support from said officer or ~~fireman, firefighter~~ or rescue squad worker or senior member of the Civil Air Patrol at the time of his death; provided, however, that if a dependent child is entitled to receive benefits at the time of the officer's or ~~fireman's firefighter's~~ or rescue squad worker's or senior Civil Air Patrol member's death as hereinafter provided, he shall continue to be eligible to receive such benefits regardless of his age thereafter; and further provided that any child over 18 years of age who is physically or mentally incapable of earning a living and any child over 18 years of age who was enrolled as a full-time student at the time of the officer's, the ~~fireman's, firefighter's,~~ the rescue squad worker's or the senior Civil Air Patrol member's death shall so long as he remains a full-time student as defined in the Social Security Act be regarded as a dependent child and eligible to receive benefits under the provisions of this Article.

(b) The term "dependent parent" shall mean the parent of the deceased officer, ~~fireman, firefighter,~~ rescue squad worker or senior member of the Civil Air Patrol, whether natural or adoptive, who was dependent upon and receiving his total and entire support from the officer, ~~fireman, firefighter,~~ rescue squad worker or senior member of the Civil Air Patrol at the time of the injury which resulted in his death.

(c) The term "killed in the line of duty" shall apply to any law-enforcement officer, ~~fireman, firefighter,~~ rescue squad worker who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties. When applied to a senior member of the Civil Air Patrol as defined in this Article, "killed in the line of duty" shall mean any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while engaged in a State requested and approved mission pursuant to Article 13 of Chapter 143B of the General Statutes. For purposes of this Article, when a law enforcement officer, ~~fireman, firefighter,~~ rescue squad worker, or senior Civil Air Patrol member dies as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the law enforcement officer, ~~fireman, firefighter,~~ rescue squad worker, or senior Civil Air Patrol member is presumed to have been killed in the line of duty.

(d) The term "law-enforcement officer", "officer", or "~~fireman~~" "firefighter" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the Division of Adult Correction of the Department of Public Safety; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Division of Juvenile Justice of the Department of Public Safety and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both firefighter or firemen as defined in G.S. 58-84-5(3a), or "eligible firemen" as defined in Article 86 of Chapter 58 of the General Statutes, notwithstanding any age requirements set out in that Article, and all full-time, permanent part-time and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services during the time they are actively engaged in firefighting activities; or engaged in emergency response activities pursuant to G.S. 166A-19.77; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in firefighting activities, during the time they are training firefighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue and

Emergency Medical Services, Inc., and the person must have attended a minimum of 36 hours of training in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 31 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 31 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-1031. The term "~~fireman~~" "firefighter" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties.

(e) The term "spouse" shall mean the wife or husband of the deceased officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member who survives him and who was residing with such officer, ~~fireman,~~ firefighter, rescue squad worker, or senior Civil Air Patrol member at the time of and during the six months next preceding the date of injury to such officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member which resulted in his or her death and who also resided with such officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member from that date of injury up to and at the time of his or her death and ~~who remains unmarried during the time benefits are forthcoming;~~ provided, however, the part of this section requiring the spouse to have been residing with the deceased officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member for six months next preceding the date of the injury which resulted in his death shall not apply where marriage occurred during this six-month period or where the officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member was absent during this six-month period due to service in the Armed Forces of the United States.

(f) The term "official duties" means those duties performed while en route to, engaged in, or returning from training, or in the course of responding to, engaged in or returning from a call by the department of which he is a member, or from a call for assistance from any department or such organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina, when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any eligible person, as defined in this section or in G.S. 58-86-25, who renders service or assistance, of his own volition, at the scene of an emergency, is performing his official duties when:

- (1) Reasonably apparent circumstances require prompt decisions and actions to protect persons and property; and
- (2) The necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any person's life."

SECTION 9. G.S. 143-166.3(b) reads as rewritten:

"(b) Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:

- (1) At the time of the death of an officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member, ~~twenty thousand dollars (\$20,000)~~ fifty thousand dollars (\$50,000) shall be paid to the person or persons entitled thereto.
- (2) ~~Thereafter, ten thousand dollars (\$10,000) shall be paid annually to the person or persons entitled thereto until the sum of the initial payment and each annual payment reaches fifty thousand dollars (\$50,000).~~
- (3) In the event there is no person qualifying under subsection (a) of this section, fifty thousand dollars (\$50,000) shall be paid to the estate of the deceased officer, ~~fireman,~~ firefighter, rescue squad worker or senior Civil Air Patrol member at the time of death.

(e) ~~In the event that any person or persons eligible for payments under subsection (a) of this section shall become ineligible, and other eligible person or persons qualify for said death benefit payments under subsection (a), then they shall receive the remainder of any payments~~

up to the limit of fifty thousand dollars (\$50,000) in the manner set forth in subsection (b) of this section.

~~(d) In the event any person or persons eligible for payments under subsection (a) of this section shall become ineligible and no other person or persons qualify for payments under that subsection and where the sum of the initial payment of twenty thousand dollars (\$20,000) and each subsequent annual payment of ten thousand dollars (\$10,000) does not total fifty thousand dollars (\$50,000), then the difference between the total of the payments made and fifty thousand dollars (\$50,000) shall immediately be payable to the estate of the deceased officer, fireman, rescue squad worker, or senior Civil Air Patrol member."~~

SECTION 10.(a) In order to participate in the Local Governmental Employees' Retirement System after October 1, 2015, the charter or articles of incorporation of fire departments must include a provision that provides that the governing body of the local government entity that holds the contract with the highest dollar value to the fire department for provision of fire services shall have the authority to remove from office up to fifty percent (50%) plus one member of the Board of Trustees or Board of Directors of the fire department. Before exercising this authority, the local government entity shall notify the affected fire department and give the fire department the opportunity to be heard in a public meeting. When any fire department board member is removed, the resulting vacancy shall be filled pursuant to the bylaws of the fire department.

SECTION 10.(b) This section only applies to fire departments that commenced participation in the Local Governmental Employees' Retirement System between 1977 and 1992 pursuant to Chapter 316 of the Session Laws of 1977 and have contracts to provide fire protection to a city, county, or instrumentality of the State.

SECTION 11. This act becomes effective July 1, 2015.

In the General Assembly read three times and ratified this the 11th day of June, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:00 a.m. this 19th day of June, 2015