

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 26*

Short Title: Modify Fire Relief Funds.

(Public)

Sponsors: Senators Ballance; Carpenter, Forrester, Hartsell, Soles, Warren, and Perdue.

Referred to: Pensions and Retirement.

February 6, 1991

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE STATUTES GOVERNING FIRE RELIEF FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-84-25 reads as rewritten:

"§ 58-84-25. Disbursement of funds by Insurance Commissioner.

There is annually appropriated the funds collected pursuant to G.S. 58-84-10 to be distributed in accordance with this section. The Commissioner of Insurance shall report the funds received pursuant to G.S. 58-84-10 and the disbursements made in accordance with this section as part of his annual budget request and report to the General Assembly.

The Insurance Commissioner shall deduct the sum of three percent (3%) from the money so collected from the insurance companies, corporations, or association, as aforesaid, and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the money so collected from the insurance companies, corporations, or associations, as aforesaid, and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The remainder of the money so collected from the insurance companies, corporations, or associations, as aforesaid, doing business in the towns and cities in the State having or that may hereafter have organized fire departments as provided in this Article, said Insurance Commissioner shall pay to the treasurer of each town or city to be held by him as a separate and distinct fund, and he shall immediately pay the same to the treasurer of the local board of trustees upon his election and qualification, for the use of the board of

1 trustees of the firemen's local relief fund in each town or city, which board shall be
2 composed of five members, residents of said city or town as hereinafter provided for, to
3 be used by it for the purposes as named in G.S. 58-84-35."

4 Sec. 2. G.S. 58-84-30 reads as rewritten:

5 **"§ 58-84-30. Trustees appointed; organization.**

6 (a) For each county, town or city complying with and deriving benefits from the
7 provisions of this Article, there shall be appointed a local board of trustees, known as
8 the trustees of the firemen's relief fund, to be composed of five members, two of whom
9 shall be elected by the members of the local fire department or departments who are
10 qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and
11 board of aldermen or other local governing body, and one of whom shall be named by
12 the Commissioner of Insurance. Their selection and term of office shall be as follows:

13 (1) The members of the fire department shall hold an election each
14 January to elect their representatives to above board. In January 1950,
15 the firemen shall elect one member to serve for two years and one
16 member to serve for one year, then each year in January thereafter,
17 they shall elect only one member and his term of office shall be for
18 two years.

19 (2) The mayor and board of aldermen or other local governing body shall
20 appoint, in January 1950, two representatives to above board, one to
21 hold office for two years and one to hold office for one year, and each
22 year in January thereafter they shall appoint only one representative
23 and his term of office shall be for two years.

24 (3) The Commissioner of Insurance shall appoint one representative to
25 serve as trustee and he shall serve at the pleasure of the Commissioner.

26 All of the above trustees shall hold office for their elected or appointed time, or until
27 their successors are elected or appointed, and shall serve without pay for their services.
28 They shall immediately after election and appointment organize by electing from their
29 members a chairman and a secretary and treasurer, which two last positions may be held
30 by the same person. The treasurer of said board of trustees shall give a good and
31 sufficient surety bond in a sum equal to the amount of moneys in his hand, to be
32 approved by the Commissioner of Insurance. The cost of this bond may be deducted by
33 the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10
34 before distribution is made to local relief funds. If the chief or chiefs of the local fire
35 departments are not named on the board of trustees as above provided, then they shall
36 serve as ex officio members without privilege of voting on matters before the board.

37 (b) Nothing in this section shall prohibit the consolidation of local relief funds in
38 a county, a region, or otherwise. The State Fire Service Relief Fund Board shall issue
39 rules regulating these consolidations."

40 Sec. 3. G.S. 58-84-35 reads as rewritten:

41 **"§ 58-84-35. Disbursement of funds by trustees.**

42 The board of trustees of the local fire relief funds shall have ~~entire~~ control of the
43 funds derived from the provisions of this Article, subject to review by the State Fire
44 Service Relief Fund Board, and shall disburse the funds only for ~~the following purposes:~~

- 1 (1) ~~To safeguard any fireman in active service from financial loss,~~
 2 ~~occasioned by sickness contracted or injury received while in the~~
 3 ~~performance of his duties as a fireman.~~
- 4 (2) ~~To provide a reasonable support for those actually dependent upon the~~
 5 ~~services of any fireman who may lose his life in the fire service of his~~
 6 ~~town, city, or State, either by accident or from disease contracted or~~
 7 ~~injury received by reason of such service. The amount is to be~~
 8 ~~determined according to the earning capacity of the deceased.~~
- 9 (2.1) ~~To provide assistance, upon approval by the Secretary of the State~~
 10 ~~Firemen's Association, to a destitute member fireman who has served~~
 11 ~~honorably for at least five years.~~
- 12 (3) ~~Repealed by Session Laws 1985, c. 666, s. 61.~~
- 13 (4) ~~To provide for the payment of any fireman's assessment in the~~
 14 ~~Firemen's Fraternal Insurance Fund of the State of North Carolina if~~
 15 ~~the board of trustees finds as a fact that said fireman is unable to pay~~
 16 ~~the said assessment by reason of disability.~~
- 17 (5) ~~To provide for benefits of supplemental retirement, workers~~
 18 ~~compensation, and other insurance and pension protection for firemen~~
 19 ~~otherwise qualifying for benefits from the Firemen's Relief Fund as set~~
 20 ~~forth in Article 85 of this Chapter.~~
- 21 (6) ~~To provide for educational benefits to firemen and their dependents~~
 22 ~~who otherwise qualify for benefits from the Firemen's Relief Fund as~~
 23 ~~set forth in Article 85 of this Chapter.~~

24 ~~Notwithstanding any other provisions of law, no expenditures shall be made~~
 25 ~~pursuant to subsections (5) and (6) of this section unless the State Firemen's Association~~
 26 ~~has certified that such expenditures will not render the Fund actuarially unsound for the~~
 27 ~~purposes of providing the benefits set forth in subsections (1), (2), and (4) of this~~
 28 ~~section. If, for any reason, funds made available for subsections (5) and (6) of this~~
 29 ~~section shall be insufficient to pay in full any benefits, the benefits pursuant to~~
 30 ~~subsections (5) and (6) shall be reduced pro rata for as long as the amount of insufficient~~
 31 ~~funds exists. No claim shall accrue with respect to any amount by which a benefit under~~
 32 ~~subsections (5) and (6) shall have been reduced. purposes authorized by rules issued by~~
 33 ~~the State Fire Service Relief Fund Board."~~

34 Sec. 4. G.S. 58-84-40 reads as rewritten:

35 "**§ 58-84-40. Trustees to keep account and file certified reports.**

36 (a) Each local board of trustees shall keep a correct account of all moneys
 37 received and disbursed by them. On a form prescribed by the North Carolina State
 38 Firemen's Association, each local board shall certify by ~~October 31~~ July 31 of each year
 39 the following to the Association: the balance of the local fund, ~~proof of sufficient bonding,~~
 40 fund and a full accounting of the previous fiscal year's receipts and expenditures, and a
 41 full accounting of membership qualifications. expenditures. The annual financial statement
 42 shall provide sufficient information to track the tax funds received through to the
 43 firemen receiving the funds as direct benefits or to the purchase of insurance or other

1 indirect benefits for the firemen. Such certification shall be made concurrently with the
2 local unit's statement of Fire Readiness.

3 (b) ~~In turn, the~~ The North Carolina State Firemen's Association shall certify
4 compile and consolidate the information contained in the required annual financial
5 statements and forward that information to the Department of Insurance by January 1
6 October 31 of each year on a form in the manner prescribed by the Department, the local
7 units which have complied with the requirements of subsection (a) of this section. Department.
8 The North Carolina State Firemen's Association shall also furnish this information to
9 the members of the State Fire Service Relief Fund Board.

10 (c) In the event that any board of trustees in any of the towns and cities benefited
11 by this Article shall neglect or fail to perform their duties, or shall willfully
12 misappropriate the funds entrusted in their care by obligating or disbursing such funds
13 for any purpose other than those ~~set forth in G.S. 58-84-35 and~~ authorized by the rules of
14 the State Fire Service Relief Fund Board, then the ~~Insurance~~ Commissioner of Insurance
15 shall withhold any and all further payments to such board of trustees, or their
16 successors, until the matter has been fully investigated by an official of the North
17 Carolina State Firemen's Association, and adjusted to the satisfaction of the ~~Insurance~~
18 Commissioner of Insurance.

19 (d) In the event that any local relief fund provided for in this Article becomes
20 impaired, then the ~~Firemen's State Fire Service Relief Fund Board~~ may in the discretion of
21 its board of trustees assist the local unit administering the fund in providing for relief to
22 injured firemen and their dependents or survivors; provided, however, that any funds so
23 provided to such impaired units shall be repaid in full at the statutory rate of interest
24 from future local unit receipts if the impairment resulted from violations of this Article."

25 Sec. 5. G.S. 58-84-45 reads as rewritten:

26 **"§ 58-84-45. Municipal clerk to certify list of fire companies; effect of failure.**

27 The clerk of any city, town, village, or other municipal corporation having an
28 organized fire department shall, on or before ~~the thirty first day of October 31 in each~~
29 year, make and file with the Commissioner of Insurance his certificate, stating the
30 existence of ~~such department, the number of steam, hand, or other engines, hook and ladder~~
31 ~~trucks, and hose cars in actual use, the number of organized companies, and the system of~~
32 ~~water supply in use for such departments,~~ that department together with such other facts as
33 the Commissioner of Insurance may require, on a blank to be furnished by ~~him~~ the
34 Commissioner of Insurance. If the certificate required by this section is not filed with
35 the Commissioner of Insurance on or before October 31 in any year, ~~the city, town or~~
36 ~~village so failing to file such certificate shall forfeit the payment next due to be paid to said~~
37 ~~board of trustees, and the Commissioner of Insurance shall pay over said amount to the~~
38 ~~treasurer of the North Carolina State Firemen's Association and same shall constitute a part of~~
39 ~~the firemen's relief fund; then the premium tax funds due to the departments listed in that~~
40 certificate shall be forfeited to the State Fire Service Relief Fund unless the clerk and
41 the affected fire departments file an appeal with the State Fire Service Relief Fund
42 Board pursuant to rules issued by the Board. Provided, that the Commissioner of Insurance
43 is authorized and empowered to pay over to the local board of trustees of the firemen's relief
44 fund for the benefit of the fire department of any city, town, village or other municipal
45 corporation having an organized fire department, which has otherwise complied with the

1 provisions of Articles 84 through 88 of this Chapter, the proper allocation or share of the funds
2 derived under the provisions of Articles 84 through 88 of this Chapter for the year 1953, and
3 which funds up to this time have been withheld because the clerk of such city, town, village or
4 other municipal corporation having an organized fire department failed to file the certificate
5 required by this section or failed to file same on or before October 31, 1953; the certificates
6 filed subsequent to October 31, 1953, shall be deemed to have been filed in substantial
7 compliance with this section, and as to those organized fire departments which have not yet
8 filed any certificate for 1953, the Commissioner of Insurance may pay to such department its
9 proper share of the funds derived under Articles 84 through 88 of this Chapter, upon the filing
10 of such certificate for said year; all other requirements of Articles 84 through 88 of this Chapter
11 must have been complied with and this proviso applies only to the funds of the year 1953.”

12 Sec. 6. G.S. 58-84-50 reads as rewritten:

13 **"§ 58-84-50. Fire departments to be members of North Carolina State Firemen's**
14 **Association.**

15 (a) For the purpose of supervision and as a guaranty that provisions of this
16 Article shall be honestly administered in a businesslike manner, it is provided that every
17 department enjoying the benefits of this law shall be a member of the North Carolina
18 State Firemen's Association and comply with its constitution and bylaws. ~~If the fire~~
19 ~~department of any city, town or village shall fail to comply with the constitution and bylaws of~~
20 ~~said Association, said city, town or village shall forfeit its right to the next annual payment due~~
21 ~~from the funds mentioned in this Article, and the~~ The Commissioner of Insurance shall pay
22 over ~~said an~~ amount to the treasurer of the North Carolina State Firemen's Association
23 sufficient to pay the dues in the Association for every member of a fire department and
24 same shall constitute a part of the firemen's relief fund. from the proceeds of the premium
25 tax collected in accordance with G.S. 58-84-10.

26 (b) The North Carolina State Firemen's Association shall have supervisory
27 authority for the filing of the annual financial statements to be filed by the local relief
28 fund boards.

29 (c) The North Carolina State Firemen's Association shall furnish managerial
30 support to the local fire relief fund boards."

31 Sec. 7. G.S. 58-85-1 reads as rewritten:

32 **"§ 58-85-1. Application of fund.**

33 The money paid into the hands of the ~~treasurer of the North Carolina State Firemen's~~
34 ~~Association~~ State Fire Service Relief Fund Board shall be known and remain as the
35 "Firemen's State Fire Service Relief Fund" of North Carolina, and shall be used as a fund
36 for the relief of firemen, ~~members of such Association,~~ who may be injured or rendered
37 sick by disease contracted in the actual discharge of duty as firemen, ~~and for the relief of~~
38 ~~widows, children, and if there be no widow or children, then dependent mothers of such~~
39 ~~firemen killed or dying from disease so contracted in such discharge of duty; firemen;~~ to be
40 paid in such manner and in such sums to such individuals ~~of the classes herein named and~~
41 ~~described as may be provided for and determined upon in accordance with the constitution~~
42 ~~and bylaws of said Association, and such provisions and determinations made pursuant to said~~
43 ~~constitution and bylaws shall be final and conclusive as to the persons entitled to benefits and~~
44 ~~as to the amount of benefit to be received, and no action at law shall be maintained against said~~
45 ~~Association to enforce any claim or recover any benefit under this Article or under the~~

1 ~~constitution and bylaws of said Association; but if any officer or committee of said Association~~
2 ~~omit or refuse to perform any duty imposed upon him or them, nothing herein contained shall~~
3 ~~be construed to prevent any proceedings against said officer or committee to compel him or~~
4 ~~them to perform such duty by the State Fire Service Relief Fund Board. No fireman shall~~
5 be entitled to receive any benefits under this section until the firemen's relief fund of his
6 city or town shall have been exhausted. Notwithstanding the above provisions, the
7 Executive Board of the North Carolina State Firemen's Association is hereby authorized to
8 grant educational scholarships to the children of members, to subsidize premium payments of
9 members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina
10 State Firemen's Association, and to provide accidental death and dismemberment insurance for
11 members of those fire departments not eligible for benefits pursuant to standards of
12 certification adopted by the State Firemen's Association for the use of local relief funds."

13 Sec. 8. A new section is added to Article 85 of Chapter 58 of the General
14 Statutes to read:

15 **"§ 58-85-5. State Fire Service Relief Fund Board.**

16 (a) There is created a State Fire Service Relief Fund Board for the purpose of
17 managing the State Fire Service Relief Fund and overseeing the management and uses
18 of the various local relief funds and local supplementary relief and pension funds, by
19 whatever name, receiving the proceeds of the fire and lightning insurance premium tax
20 imposed by G.S. 58-84-10.

21 (b) Composition.—The State Fire Service Relief Fund Board shall be
22 composed of:

23 (1) Voting members:

- 24 a. The President of the North Carolina State Firemen's
25 Association,
26 b. The First Vice-President of the North Carolina State Firemen's
27 Association,
28 c. The Second Vice-President of the North Carolina State
29 Firemen's Association,
30 d. The Secretary of the North Carolina State Firemen's
31 Association,
32 e. The Treasurer of the North Carolina State Firemen's
33 Association,
34 f. The Commissioner of Insurance or his designee,
35 g. The State Auditor or his designee, and
36 h. The State Treasurer or his designee.

37 (2) The Executive Secretary of the North Carolina State Firemen's
38 Association shall serve as the secretary to the Board.

39 (3) Term of office.—Each member shall have one vote and shall serve one
40 Board while filling the named position.

41 (4) Board officers.—The members of the Board shall select from among its
42 membership a chairman and a vice-chairman, who shall serve for one
43 year and may not hold the same position for more than one year.

44 (c) Staff support, including assistance in the issuance of rules and regulations,
45 legal assistance, and issuance of per diem and travel expense drafts, shall be provided

1 by the Department of Insurance. Per diem and travel expenses shall be reimbursed in
 2 accordance with G.S. 138-5. Expenses of the Board shall be paid from funds derived
 3 from the premium tax collected pursuant to G.S. 58-84-10.

4 (d) Functions.—The Board shall:

5 (1) Manage the State Fire Service Relief Fund.

6 (2) Issue rules and regulations, pursuant to Chapter 150B of the General
 7 Statutes, for the management of the local fire relief funds and any
 8 other relief or pension funds, by whatever name, receiving funds
 9 derived from the premium tax collected pursuant to G.S. 58-84-10,
 10 including:

11 a. Reducing restrictions on the use of the funds so that the local
 12 relief funds and the State Fire Service Relief Fund can be used
 13 to provide the maximum benefits for all firemen in a manner
 14 consistent with sound actuarial and business practices.

15 b. Providing for consolidation of local funds on a county, regional,
 16 or other basis to allow for the pooling of the local funds to
 17 provide benefits to covered firemen.

18 c. Providing needed flexibility so that local modifications of the
 19 general laws governing the use of relief funds would not be
 20 necessary.

21 d. Providing for the receipt of annual financial reports from local
 22 fire relief funds and all other relief or pension funds, by
 23 whatever name, to provide oversight of the use of tax funds for
 24 the benefit of firemen.

25 (3) Review of the uses of the premium tax funds collected pursuant to
 26 G.S. 58-84-10 and currently received or held by local relief, local
 27 supplemental relief or pension funds, by whatever name, pursuant to
 28 local modifications of the general laws to insure that these funds are
 29 being used in the most efficient manner to provide benefits to the
 30 covered firemen; make recommendations to the General Assembly
 31 concerning any changes or repeal of any local modifications enacted
 32 prior the the enactment of this section; and make recommendations to
 33 the General Assembly on all local modifications to the general laws
 34 regulating the use of relief funds introduced after the enactment of this
 35 section.

36 (e) The Board shall meet at least quarterly for the transaction of business, upon
 37 the call of the Chairman. The Board shall report quarterly to the Joint Legislative
 38 Commission on Governmental Operations and to the Fiscal Research Division of the
 39 Legislative Services Office."

40 Sec. 9. G.S. 58-85-10 reads as rewritten:

41 "**§ 58-85-10. Treasurer of North Carolina State Firemen's Association to file report**
 42 **and give bond. report.**

43 The treasurer of the North Carolina State Firemen's Association shall make a
 44 detailed report to the State Treasurer of the yearly expenditures of the ~~appropriation under~~

1 ~~Articles 84 through 88 of this Chapter funds derived from the premium tax collected~~
2 ~~pursuant to G.S. 58-84-10 on or before the end of the fiscal year, showing the total amount~~
3 ~~of money in his hands at the time of the filing of the report, and shall give a bond to the State of~~
4 ~~North Carolina with good and sufficient sureties to the satisfaction of the Treasurer of the State~~
5 ~~of North Carolina in a sum not less than the amount of money on hand as shown by said report.~~
6 ~~year."~~

7 Sec. 10. G.S. 58-85-15 reads as rewritten:

8 **"§ 58-85-15. Who shall participate in the fund.**

9 The line of duty entitling one to participate in the fund shall ~~be so construed as to~~
10 ~~mean actual fire duty only, and any actual duty connected with the fire department when~~
11 ~~directed to perform the same by an officer in charge. 'official duties' as defined in G.S.~~
12 ~~143-166.2(f)."~~

13 Sec. 11. G.S. 58-85-20 reads as rewritten:

14 **"§ 58-85-20. Who ~~may~~ shall become members.**

15 ~~Any organized fire company in North Carolina, holding itself ready for duty, may,~~
16 ~~upon compliance with the requirements of said constitution and bylaws, become a~~
17 ~~member of the North Carolina State Firemen's Association, and any Any fireman of~~
18 ~~good moral character in North Carolina, and belonging to an organized fire company,~~
19 ~~who will comply with the requirements of the constitution and bylaws of the North~~
20 ~~Carolina State Firemen's Association, may shall become a member of said Association."~~

21 Sec. 12. G.S. 58-85-30 is repealed.

22 Sec. 13. Section 8 of this act becomes effective January 1, 1992. Sections 1
23 through 7 and 9 through 12 become effective July 1, 1992. Funds in the possession of
24 the Treasurer of the North Carolina State Firemen's Association and designated as the
25 "Firemen's Relief Fund" shall be transferred to the North Carolina State Fire Service
26 Relief Fund Board for the "State Fire Service Relief Fund" on July 1, 1992. Section 13
27 of this act is effective upon ratification.