

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 26*

Pensions and Retirement Committee Substitute Adopted 7/2/92

Short Title: Modify Fire Relief Funds.

(Public)

Sponsors:

Referred to:

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

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

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

6 **"§ 58-84-30. Trustees appointed; organization.**

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

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

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

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

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

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

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

42 **"§ 58-84-35. Disbursement of funds by trustees.**

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

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

27 ~~Notwithstanding any other provisions of law, no expenditures shall be made~~
 28 ~~pursuant to subsections (5) and (6) of this section unless the State Firemen's Association~~
 29 ~~has certified that such expenditures will not render the Fund actuarially unsound for the~~
 30 ~~purposes of providing the benefits set forth in subsections (1), (2), and (4) of this~~
 31 ~~section. If, for any reason, funds made available for subsections (5) and (6) of this~~
 32 ~~section shall be insufficient to pay in full any benefits, the benefits pursuant to~~
 33 ~~subsections (5) and (6) shall be reduced pro rata for as long as the amount of insufficient~~
 34 ~~funds exists. No claim shall accrue with respect to any amount by which a benefit under~~
 35 ~~subsections (5) and (6) shall have been reduced. purposes authorized by rules issued by~~
 36 ~~the State Fire Service Relief Fund Board. Existing local bills shall not be changed~~
 37 ~~without the approval of a majority of the members of the local board."~~

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

39 "**§ 58-84-40. Trustees to keep account and file certified reports.**

40 (a) Each local board of trustees shall keep a correct account of all moneys
 41 received and disbursed by them. On a form prescribed by the North Carolina State
 42 Firemen's Association, each local board shall certify by ~~October 31~~ July 31 of each year
 43 the following to the Association: the balance of the local fund, ~~proof of sufficient bonding,~~
 44 fund and a full accounting of the previous fiscal year's receipts and expenditures, and a

1 ~~full accounting of membership qualifications, expenditures.~~ The annual financial statement
2 shall provide sufficient information to track the tax funds received through to the
3 firemen receiving the funds as direct benefits or to the purchase of insurance or other
4 indirect benefits for the firemen. Such certification shall be made concurrently with the
5 local unit's statement of Fire Readiness.

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

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

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

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

29 **"§ 58-84-45. Municipal clerk to certify list of fire companies; effect of failure.**

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

1 ~~Board pursuant to rules issued by the Board. Provided, that the Commissioner of Insurance~~
2 ~~is authorized and empowered to pay over to the local board of trustees of the firemen's relief~~
3 ~~fund for the benefit of the fire department of any city, town, village or other municipal~~
4 ~~corporation having an organized fire department, which has otherwise complied with the~~
5 ~~provisions of Articles 84 through 88 of this Chapter, the proper allocation or share of the funds~~
6 ~~derived under the provisions of Articles 84 through 88 of this Chapter for the year 1953, and~~
7 ~~which funds up to this time have been withheld because the clerk of such city, town, village or~~
8 ~~other municipal corporation having an organized fire department failed to file the certificate~~
9 ~~required by this section or failed to file same on or before October 31, 1953; the certificates~~
10 ~~filed subsequent to October 31, 1953, shall be deemed to have been filed in substantial~~
11 ~~compliance with this section, and as to those organized fire departments which have not yet~~
12 ~~filed any certificate for 1953, the Commissioner of Insurance may pay to such department its~~
13 ~~proper share of the funds derived under Articles 84 through 88 of this Chapter, upon the filing~~
14 ~~of such certificate for said year; all other requirements of Articles 84 through 88 of this Chapter~~
15 ~~must have been complied with and this proviso applies only to the funds of the year 1953."~~

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

17 **"§ 58-84-50. Fire departments to be members of North Carolina State Firemen's**
18 **Association.**

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

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

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

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

36 **"§ 58-85-1. Application of fund.**

37 The money paid into the hands of the ~~treasurer of the North Carolina State Firemen's~~
38 ~~Association State Fire Service Relief Fund Board shall be known and remain as the~~
39 ~~'Firemen's State Fire Service Relief Fund' of North Carolina, and shall be used as a fund~~
40 ~~for the relief of firemen, members of such Association, who may be injured or rendered~~
41 ~~sick by disease contracted in the actual discharge of duty as firemen, and for the relief of~~
42 ~~widows, children, and if there be no widow or children, then dependent mothers of such~~
43 ~~firemen killed or dying from disease so contracted in such discharge of duty; firemen; to be~~
44 ~~paid in such manner and in such sums to such individuals of the classes herein named and~~
45 ~~described as may be provided for and determined upon in accordance with the constitution~~

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

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

19 "**§ 58-85-5. State Fire Service Relief Fund Board.**

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

25 (b) Composition. – The State Fire Service Relief Fund Board shall be composed
26 of:

27 (1) Voting members:

- 28 a. Three members, of whom one shall be a nonchief member of
29 the North Carolina State Firemen's Association, shall be
30 appointed by the Board of Directors of the North Carolina State
31 Firemen's Association,
- 32 b. Two members shall be appointed by the Board of Directors of
33 the North Carolina Association of Fire Chiefs,
- 34 c. Two nonfire service-related members of the public-at-large
35 appointed by the General Assembly upon the recommendation
36 of the Speaker of the House of Representatives in accordance
37 with G.S. 120-121,
- 38 d. Two nonfire service-related members of the public-at-large
39 appointed by the General Assembly upon the recommendation
40 of the President Pro Tempore of the Senate in accordance with
41 G.S. 120-121,
- 42 e. The Commissioner of Insurance or his designee, and
- 43 f. The State Treasurer or his designee.

- 1 (2) The Executive Secretary of the North Carolina State Firemen's
2 Association shall serve as an ex officio member of the Board, without
3 a vote, and shall serve as the secretary to the Board.
- 4 (3) Term of office. – Each member shall have one vote and shall serve on
5 the Board for two years. One of the two public members initially
6 appointed by the General Assembly upon the recommendation of each
7 presiding officer shall serve a term of one year and the other public
8 member initially appointed shall serve a term of two years, thereafter
9 the terms of the public members shall be two years. Vacancies in the
10 position of public members shall be filled in accordance with G.S.
11 120-122.
- 12 (4) Board officers. – The members of the Board shall select from among
13 its membership a chairman and a vice-chairman, who shall serve for
14 two years.
- 15 (c) Staff support, including assistance in the issuance of rules and regulations,
16 legal assistance, and issuance of per diem and travel expense drafts, shall be provided
17 by the Department of Insurance. Per diem and travel expenses shall be reimbursed in
18 accordance with G.S. 138-5. Expenses of the Board shall be paid from funds derived
19 from the premium tax collected pursuant to G.S. 58-84-10.
- 20 (d) Functions. – The Board shall:
- 21 (1) Manage the State Fire Service Relief Fund.
- 22 (2) Issue rules and regulations, pursuant to Chapter 150B of the General
23 Statutes, for the management of the local fire relief funds and any
24 other relief or pension funds, by whatever name, receiving funds
25 derived from the premium tax collected pursuant to G.S. 58-84-10,
26 including:
- 27 a. Reducing restrictions on the use of the funds so that the local
28 relief funds and the State Fire Service Relief Fund can be used
29 to provide the maximum benefits for all firemen in a manner
30 consistent with sound actuarial and business practices.
- 31 b. Providing for consolidation of local funds on a county, regional,
32 or other basis to allow for the pooling of the local funds to
33 provide benefits to covered firemen. Existing local funds shall
34 not be consolidated without the approval of a majority of the
35 members of the local board.
- 36 c. Providing needed flexibility so that local modifications of the
37 general laws governing the use of relief funds would not be
38 necessary.
- 39 d. Providing for the receipt of annual financial reports from local
40 fire relief funds and all other relief or pension funds, by
41 whatever name, to provide oversight of the use of tax funds for
42 the benefit of firemen.
- 43 (3) Review of the uses of the premium tax funds collected pursuant to
44 G.S. 58-84-10 and currently received or held by local relief, local

1 supplemental relief or pension funds, by whatever name, pursuant to
2 local modifications of the general laws to insure that these funds are
3 being used in the most efficient manner to provide benefits to the
4 covered firemen; make recommendations to the General Assembly if a
5 majority of the members of the local board supports the
6 recommendation concerning any changes or repeal of any local
7 modifications enacted prior to the enactment of this section; and make
8 recommendations to the General Assembly on all local modifications
9 to the general laws regulating the use of relief funds introduced after
10 the enactment of this section.

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

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

16 **"§ 58-85-10. Treasurer of North Carolina State Firemen's Association to file report**
17 **and give bond-report.**

18 The treasurer of the North Carolina State Firemen's Association shall make a
19 detailed report to the State Treasurer of the yearly expenditures of the ~~appropriation under~~
20 ~~Articles 84 through 88 of this Chapter~~ funds derived from the premium tax collected
21 pursuant to G.S. 58-84-10 on or before the end of the fiscal year, showing the total amount
22 of money in his hands at the time of the filing of the report, and shall give a bond to the State of
23 North Carolina with good and sufficient sureties to the satisfaction of the Treasurer of the State
24 of North Carolina in a sum not less than the amount of money on hand as shown by said report.
25 year."

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

27 **"§ 58-85-15. Who shall participate in the fund.**

28 The line of duty entitling one to participate in the fund shall ~~be so construed as to~~
29 ~~mean actual fire duty only, and any actual duty connected with the fire department when~~
30 ~~directed to perform the same by an officer in charge.~~ 'official duties' as defined in G.S.
31 143-166.2(f)."

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

33 **"§ 58-85-20. Who ~~may~~ shall become members.**

34 ~~Any organized fire company in North Carolina, holding itself ready for duty, may,~~
35 ~~upon compliance with the requirements of said constitution and bylaws, become a~~
36 ~~member of the North Carolina State Firemen's Association, and any~~ Any fireman of
37 good moral character in North Carolina, and belonging to an organized fire company,
38 who will comply with the requirements of the constitution and bylaws of the North
39 Carolina State Firemen's Association, may shall become a member of said Association."

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

41 Sec. 13. Sections 1 through 12 become effective October 1, 1992. Funds in
42 the possession of the Treasurer of the North Carolina State Firemen's Association and
43 designated as the "Firemen's Relief Fund" shall be transferred to the Department of the

- 1 State Treasurer for the "State Fire Service Relief Fund" on October 1, 1992. Section 13
- 2 of this act is effective upon ratification.