

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 812

Short Title: Hendersonville Supp. Fire Fund.

(Local)

Sponsors: Senator Plexico.

Referred to: Pensions and Retirement.

April 12, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW REGARDING THE SUPPLEMENTAL  
3 RETIREMENT FUND FOR FIREFIGHTERS IN THE CITY OF  
4 HENDERSONVILLE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 341 of the 1981 Session Laws reads as rewritten:

7 "Section 1. Supplemental retirement fund created. The Board of Trustees of the  
8 Local Firemen's Relief Fund of the City of Hendersonville, as established in accordance  
9 with ~~G.S. 118-9~~, G.S. 58-84-30, hereinafter called the board of trustees, shall create and  
10 maintain a separate fund to be called the Hendersonville Firemen's Supplemental  
11 Retirement Fund, hereinafter called the supplemental retirement fund, and shall  
12 maintain books of account for this fund separate from the books of account of the  
13 Firemen's Local Relief Fund of the City of Hendersonville, hereinafter called the local  
14 relief fund. The board of trustees shall pay into the supplemental retirement fund the  
15 funds prescribed by this act.

16 **Sec. 2.** Transfers of funds and disbursements. Notwithstanding the provisions of ~~G.S.~~  
17 ~~118-7~~, G.S. 58-84-35, the Board of Trustees of the Local Firemen's Relief Fund of the  
18 City of Hendersonville shall:

19 (1) prior to July 1, 1981, transfer to the supplemental retirement fund all funds,  
20 including earnings on investments, of the local relief fund in excess of ten thousand  
21 dollars (\$10,000);

22 (2) in each subsequent calendar year, and within 30 days after receipt from the city  
23 treasurer of the annual funds paid to the local relief fund by authority of ~~G.S. 118-5~~, G.S.  
24 58-84-25, transfer to the supplemental retirement fund these funds;

1 (3) at any time within six months when the amount of funds in the local relief fund  
2 are, by reason of disbursements authorized by ~~G.S. 118-7, G.S. 58-84-35~~, less than ten  
3 thousand dollars (\$10,000), transfer from the supplemental retirement fund to the local  
4 relief fund an amount sufficient to maintain in the local relief fund the sum of ten  
5 thousand dollars (\$10,000);

6 (4) as soon as practicable after January 1 of each year, but in no event later than July  
7 1, divide the income earned in the preceding calendar year upon investments of funds  
8 belonging to the Local Firemen's Relief Fund into equal shares and disburse the same as  
9 supplemental retirement benefits in accordance with Section 3 of this act.

10 **Sec. 3.** Supplemental retirement benefits. (a) Each retired fireman of the city  
11 ~~who has previously retired with 30 years' service, or more, as a city fireman is entitled~~  
12 ~~to and shall receive in each calendar year is entitled to receive in each calendar year of~~  
13 ~~the fireman's life, beginning the month of the next quarter following retirement, the~~  
14 ~~following the calendar year in which he retires the following supplemental retirement~~  
15 ~~benefits. benefit.~~ In no event shall any retired fireman be entitled to or receive in any  
16 year an annual benefit in excess of ~~nine hundred dollars (\$900.00)~~, which amount is  
17 ~~defined herein as a 'share': one thousand eight hundred dollars (\$1,800):~~

18 (1) ~~one share for each full year of service as a full-time and fully paid fireman of~~  
19 ~~the city;~~

20 (2) ~~one half (50%) of one share for each full year of service as a volunteer~~  
21 ~~fireman of the city;~~

22 (3) ~~the surviving spouse of a full-time or volunteer fireman, who dies after~~  
23 ~~retirement from a full-time or a volunteer position is entitled to (a) one share for each~~  
24 ~~full year of service that her deceased spouse served as a full-time and fully paid fireman~~  
25 ~~of the city, or (b) one half (50%) of one share for each full year of service that her~~  
26 ~~deceased spouse served as a volunteer fireman of the city. This right of benefits payable~~  
27 ~~to a surviving spouse shall continue for a maximum of 16 consecutive years. Each year~~  
28 ~~of benefits drawn by the retired fireman prior to his death shall be counted as one of the~~  
29 ~~maximum years permissible and the benefits payable to the surviving spouse shall be~~  
30 ~~reduced accordingly;~~

31 (4) ~~if a full-time or volunteer fireman attains the age of 55 years and 20 years of~~  
32 ~~service, and then retires, he, or his surviving spouse, is entitled to benefits equivalent to~~  
33 ~~two thirds (66 2/3%) of one share in conformance with Section 3(a)(1), (2) and (3) of~~  
34 ~~this act. If retirement occurs at the age of 55 years and with more than 20 years of~~  
35 ~~service, then the portion of the share to be paid shall be increased according to a~~  
36 ~~mathematical formula established by the board of trustees. If retirement occurs at the~~  
37 ~~age of 55 years and with 30 years or more of service, then full benefits shall be paid in~~  
38 ~~accordance with these sections;~~

39 (5) ~~all benefits are payable on a quarterly basis.~~

40 (1) each full-time fireman who has retired and has attained the age of 55 with 30  
41 or more years of service as a full-time fireman with the city is entitled to and shall  
42 receive an annual benefit of one thousand eight hundred dollars (\$1,800);

1       (2) each full-time fireman who has retired and has attained the age of 55 with 20  
2 years of service as a full-time fireman with the city is entitled to and shall receive an  
3 annual benefit of one thousand two hundred dollars (\$1,200);

4       (3) each volunteer fireman who has retired and has attained the age of 55 with 30  
5 or more years of service as a fireman with the city is entitled to and shall receive an  
6 annual benefit of nine hundred dollars (\$900.00);

7       (4) each volunteer fireman who has retired and has attained the age of 55 with 20  
8 years of service as a fireman with the city is entitled to and shall receive an annual  
9 benefit of six hundred dollars (\$600.00);

10       (5) each full-time or volunteer fireman who has retired and has attained the age  
11 of 55 with more than 20 years but less than 30 years of service as a fireman with the city  
12 is entitled to and shall receive an annual benefit according to a mathematical formula  
13 established by the board of trustees;

14       (6) the surviving spouse of a full-time or volunteer fireman who dies after  
15 retirement from a full-time or volunteer position is entitled to receive the same benefit  
16 which the retired fireman was receiving prior to death for a period of time, which when  
17 added to the time that the fireman had received the benefit, totals up to a maximum of  
18 16 years;

19       (7) all benefits are payable on a quarterly basis.

20       (b) Any former fireman of the city, either full-time and fully paid or volunteer,  
21 who is not otherwise entitled to supplemental retirement benefits under subsection (a) of  
22 this section, shall nevertheless be entitled to the benefits in any calendar year in which  
23 the board of trustees makes the following written findings of fact:

24       (1) that he initially retired from his position as a fireman because of his inability, by  
25 reason of sickness or injury, to perform the normal duties of an active fireman; and

26       (2) that, within 30 days prior to or following his initial retirement as a fireman, at  
27 least two physicians licensed to practice medicine in North Carolina certified that he  
28 was at that time unable, by reason of sickness or injury, to perform the normal duties of  
29 an active fireman; and

30       (3) that, at the time of his initial retirement as a fireman, there was not available to  
31 him in the fire department or in any other department of the city, a position of  
32 employment, the normal duties of which he was capable of performing; and

33       (4) that, since the preceding January 1, at least two physicians licensed to practice  
34 medicine in North Carolina have certified that he remains unable, by reason of sickness  
35 or injury, to perform the normal duties of an active fireman; and

36       (5) that there remains unavailable to him in the fire department, or in any other  
37 department of the city, a position of employment, the normal duties of which he is  
38 capable of performing.

39       The board of trustees, after initially making the findings of fact specified in  
40 subdivisions (1), (2), (3), (4) and (5) of this subsection, need not specify the findings in  
41 subsequent calendar years.

42       **Sec. 4.** Investment of funds. The board of trustees may invest any funds, either of the  
43 local relief fund or of the supplemental retirement fund, in any investment named in or  
44 authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds of the

1 supplemental retirement fund in one or more investments. Investment in certificates of  
2 deposit or time deposits in any bank or trust company, or in shares of any building and  
3 loan or savings and loan association, shall not exceed the amounts insured by the  
4 Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance  
5 Corporation unless the deposits or investments in shares are secured in the manner  
6 provided by G.S. 159-30.

7 **Sec. 5.** Acceptance of gifts. The board of trustees may accept any gift, grant, bequest,  
8 or donation of money for the use of the supplemental retirement fund.

9 **Sec. 6.** Bond of treasurer. The board of trustees shall bond the treasurer of the local  
10 relief fund with a good and sufficient bond, in an amount at least equal to the amount of  
11 funds in his control, payable to the board of trustees, and conditioned upon the faithful  
12 performance of his duties. This bond shall be in lieu of the bond required by G.S. 118-  
13 6. The board of trustees shall pay the premiums of the bond of the treasurer.

14 **Sec. 7.** If any provision of this act shall be declared invalid by a court of competent  
15 jurisdiction, this invalidity shall not affect other provisions hereof which can be given  
16 effect without the invalid provision, and to this end the provisions of this act are  
17 declared to be severable.

18 **Sec. 8.** All laws and clauses of laws in conflict with this act are hereby repealed.

19 **Sec. 9.** None of the provisions of this act shall create a liability for the Hendersonville  
20 Firemen's Supplemental Retirement Fund or for the State unless sufficient current assets  
21 are available in the Fund to pay fully for the liability."

22 Sec. 2. This act is effective upon ratification.