

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 327
RATIFIED BILL

AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL, TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND RESCUE SQUAD WORKERS' ADVISORY PANEL, TO PROHIBIT CERTAIN FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as rewritten:

"Article 86.

"North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund.

"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving ~~fire fighting~~firefighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, ~~fire fighting~~firefighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue squads' activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~firefighters and rescue squad workers," as defined by this Article, there is created in this State a fund to be known, and designated as "The North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.

The North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible ~~firemen~~firefighters and rescue squad workers in the State who elect to become members of the fund. The board of trustees created by this Article shall have authority to administer the fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"§ 58-86-2. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Board" means the Board of Trustees of the Local Governmental Employees' Retirement System.
- (2) "Chair" means the chair of the Board of Trustees of the Local Governmental Employees' Retirement System.



- (3) "Director" means the Director of the Retirement Systems Division of the North Carolina Department of State Treasurer. The Director shall promptly transmit to the State Treasurer all moneys collected on behalf of members, which moneys shall be deposited by the State Treasurer into the fund.
- (4) "Eligible fire department" means a bona fide fire department which is certified to the Commissioner of Insurance by the governing body thereof, and determined as classified as not less than class "9S," and said fire department holds training sessions not less than four hours monthly.
- (5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.
- (6) "Eligible rescue or emergency medical services squad" means organized rescue squad units eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc.
- (7) "Eligible rescue squad worker" means all persons 18 years of age or older who are members of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also mean those persons meeting the other qualifications of this Article.
- (8) "Fully credited service" means a period of time for which the Board has received certification that a member has met all eligibility requirements for participation in the Pension Fund and for which the Board has received timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may purchase fully credited service for any period of service as set forth in G.S. 58-86-45.
- (9) "Inactive member" means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is not making timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40.
- (10) "Member" means an eligible firefighter or eligible rescue squad worker who has elected to participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.
- (11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.
- (12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.
- (13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

"§ 58-86-5. Creation and membership of board of trustees; compensation.

There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".

The board shall consist of six members:

- (1) The State Treasurer, who shall act as chairman.

- (2) ~~The State Insurance Commissioner.~~
- (3) ~~Repealed by Session Laws 1993, c. 9.~~
- (4) ~~Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

"§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

- (1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.
- (2) A designee of the State Insurance Commissioner.
- (3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees' Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees' Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees' Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms. No member of the advisory panel shall receive any salary, compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the advisory panel.

"§ 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 ~~government~~ 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.

"§ 58-86-11. Powers and duties of the advisory panel.

The advisory panel shall meet at least once annually upon call of the chair. The advisory panel shall have no administrative authority but shall prepare an annual report to the Board of Trustees of the North Carolina Local Governmental Employees' Retirement System regarding the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

"§ 58-86-15. Director.

~~There is created an office to be known as Director of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its pleasure. The director shall be subject to the provisions of the State Personnel Act. The director shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall be deposited by the State Treasurer into the fund.~~

"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to fund; expenditures.

The State Treasurer shall be the custodian of the North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General Assembly out of the general fund to provide money for administrative expenses shall be handled in the same manner as any other general fund appropriation. One-fourth of the

appropriation made out of the general fund to provide for the financing of the pension fund shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State Treasurer's office a special fund to be known as the North Carolina Firemen's Firefighters' and Rescue Squad Workers' Pension Fund, and all contributions made by the members of this pension fund shall be deposited in the special fund. All expenditures for refunds, investments or benefits shall be in the same manner as expenditures of other special funds.

"§ 58-86-25. Eligible firemen" defined; determination and certification of volunteers meeting qualifications. eligible firefighters.

~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class "9" or class "A" and "AA" departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, provided the board of county commissioners of that county certifies the employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report the names of those firemen-firefighters meeting the eligibility qualifications of this section Article to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this section Article to the State Treasurer by January 31 of each year. For the purposes of the preceding sentence, 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.~~

"§ 58-86-30. Eligible rescue squad worker" defined; determination and certification of eligibility. "eligible rescue squad worker."

~~"Eligible rescue squad worker" means a person who is a member of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and who has attended a minimum of Eligible rescue squad workers must attend at least 36 hours of training and meetings in the last 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.~~

~~"Eligible rescue squad worker" does not mean "eligible fireman" as defined by G.S. 58-86-25, nor may an An "eligible rescue squad worker" may not qualify also as an "eligible fireman" firefighter" in order to receive double benefits available under this Article.~~

"§ 58-86-35. Firemen's Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.

~~Those firemen-firefighters who are eligible pursuant to G.S. 58-86-25 may make application for membership to the board. apply to the board for membership. Each fireman~~

firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after March 31~~ subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after March 31~~ subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

"§ 58-86-45. Additional retroactive membership.

~~(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before March 31, 2001. The person shall make a lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible. Any fireman or rescue squad worker who has applied for prior service under this subsection shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1) of this section.~~

~~(a1) Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a current or former member of a fire department or rescue squad chartered by the State of North Carolina may purchase credit for any periods of service to any chartered fire department or rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, which payment shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on a retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. This provision for the payment of a lump sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service

credits for months as to which timely payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

(b) An eligible ~~fireman~~-firefighter or rescue squad worker who is not yet 35 years old may apply to the board of trustees for membership in the fund at any time. Upon becoming a member, the worker may make a lump sum payment of ten dollars (\$10.00) per month retroactively to the time the worker first became eligible to become a member, plus interest at an annual rate to be set by the board upon advice from actuary for each year of retroactive payments. Upon making this lump sum payment, the worker shall be given credit for all prior service in the same manner as if the worker had applied for membership upon first becoming eligible.

A member who is not yet 35 years old may receive credit for the prior service upon making a lump sum payment of ten dollars (\$10.00) for each month since the worker first became eligible, plus interest at an annual rate to be set by the board for each year of retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if the worker had applied for membership upon first becoming eligible.

"§ 58-86-55. Monthly pensions upon retirement.

Any member who has served 20 years as an "eligible ~~fireman~~-firefighter" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of one hundred seventy dollars (\$170.00) per month. Any retired ~~fireman~~-firefighter receiving a pension shall, effective July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because ~~his~~-the member's residence is annexed by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a ~~fireman~~-firefighter or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law.

"§ 58-86-60. Payments in lump sums.

The board shall direct payment in lump sums from the fund in the following cases:

- (1) To any ~~fireman~~firefighter or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the fund, an amount equal to the amount paid into the fund by him. This provision shall not be construed to preclude any active ~~fireman~~firefighter or rescue squad worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle ~~him~~the firefighter or rescue squad worker to the pension.
- (2) If any ~~fireman~~firefighter or rescue squad worker dies before attaining the age at which a pension is payable to ~~him~~the firefighter or rescue squad worker under the provisions of this Article, there shall be paid to his ~~widow~~, or her surviving spouse, or if there be no ~~widow~~, surviving spouse, to the person responsible for his or her child or children, or if there be no ~~widow~~surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs, an amount equal to the amount paid into the member's separate account by or on behalf of the said ~~fireman~~firefighter or rescue squad worker.
- (3) If any ~~fireman~~firefighter or rescue squad worker dies after beginning to receive the pension payable to ~~him~~the firefighter or rescue squad worker by this Article, and before receiving an amount equal to the amount paid into the fund by ~~him~~him or her, there shall be paid to his ~~widow~~, or her surviving spouse, or if there be no ~~widow~~, surviving spouse, then to the person responsible for his or her child or children, or if there be no ~~widow~~surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs, an amount equal to the difference between the amount paid into the member's separate account by or on behalf of the said ~~fireman~~firefighter or rescue squad worker and the amount received by him or her as a pensioner.
- (4) Any member ~~with five or more years of contributing service and who withdraws from the fund shall, upon proper application, be paid all moneys without accumulated earnings on the payments after the time they were made. If any member who has less than five years of contributing service made contributions, or any person, firm, corporation, or other entity has made contributions on behalf of that member and that member withdraws from the fund, the member, person, firm, corporation, or other entity shall be entitled to a refund equal to the amount of contributions made by them after the Board has been notified of the contributor's desire to be refunded its contributions upon the member's withdrawal. A member may not purchase time under G.S. 58-86-45 for which he or she has received a refund.~~

"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.

If, for any reason, the fund created and made available for any purpose covered by this Article shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments 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 pension or benefit payment shall have been reduced.

"§ 58-86-70. Provisions subject to future legislative change.

These pensions shall be subject to future legislative change or revision, and no member of the fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ 58-86-75. Determination of creditable service; information furnished by applicants for membership.

The board shall determine by appropriate rules and regulations the number of years' credit for service of ~~firemen~~ firefighters and rescue squad workers. ~~Firemen~~ Firefighters and rescue squad workers who are now serving as such shall furnish the board with information upon applying for membership as to previous service. Notwithstanding any other provisions of this Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad workers under such terms and conditions that the Board may adopt when the Board determines that an eligible ~~fireman~~ firefighter or rescue squad worker has been denied such service credits through no fault of his or her own.

"§ 58-86-80. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.

A ~~fireman's~~ firefighter's or rescue squad worker's length of service shall not be affected by the fact that he or she may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the board.

"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments or judgments against the ~~fireman~~ firefighter or rescue squad worker entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations allowed.~~

~~Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.~~

"§ 58-86-95. Leaves of absence; inactive membership.

(a) Any member who resigns as an eligible firefighter or an eligible rescue squad worker, whichever is applicable, may withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence as provided by G.S. 58-86-95, or he or she will be considered an inactive member.

(b) In order to take a leave of absence, any member not on active military service must provide the office of the director with written notice that the member is taking a leave of absence. Any member not on active military service on leave of absence for more than five years in any six-year period shall be considered an inactive member.

(c) A member is not eligible for service credit for the time he or she is on leave of absence and is not required to make monthly payments for that time. During the time a member is on leave of absence he or she is not eligible for benefits from the pension fund. A member who has taken a leave of absence may subsequently withdraw from the pension fund and seek a refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the appropriate person or persons may seek a refund under G.S. 58-86-60.

(d) Any member not on active military service who does not make contributions for two consecutive years and has not taken a leave of absence shall be considered an inactive member.

(e) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad, and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

- ...
(4) North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
..."

...
SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

- ...
(6) The ~~Firemen's-Firefighters'~~ and Rescue Workers' Pension Fund.
...

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

- ...
(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's-Firefighters'~~ and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single

corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

- (1) Solely in the interest of the participants and beneficiaries.
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems."

SECTION 1.(f) G.S. 147-69.8 reads as rewritten:

"§ 147-69.8. Annual report on new investment authority.

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made during the first six months of each calendar year, covering performance in the prior calendar year. As to each type of new investment authority, the report shall be made for at least four years."

SECTION 2.(a) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring disrepute on a fire department or rescue squad.

(a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is not yet 55 years of age or has not yet received 20 years of fully credited service or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant in an eligible fire department or eligible rescue squad.
- (2) The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad worker and brings disrepute on a fire department or rescue squad.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal procedure that the offense is directly related to service as a firefighter or rescue squad worker.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions, subsequently receives an unconditional pardon of innocence or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 2.(b) G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(9a) The defendant is a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker."

SECTION 2.(c) G.S. 58-86-95, as enacted by Section 1 of this act, reads as rewritten:

"§ 58-86-95. Leaves of absence; inactive ~~membership~~-membership; felony forfeiture.

...
(h) If a member who is in service and has not received 20 years of fully credited service in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that member shall forfeit all benefits under this System, except for a return of member contributions. If a member who is in service and has not received 20 years of fully credited service in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that member is not entitled to any fully credited service that accrued after December 1, 2013."

SECTION 3. Section 17 of S.L. 2012-193 reads as rewritten:

"SECTION 17. The State Treasurer shall negotiate a memorandum of agreement with the United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina whereby the prosecutors will notify the State Treasurer of convictions under G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and 135-5.1(h), 135-5.4(h), and 58-86-100(b).~~135-5.4(h)."

SECTION 4. Section 2 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2013