

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 945  
HOUSE BILL 1697

AN ACT TO CREATE AND ESTABLISH THE KINSTON FIREMEN'S  
SUPPLEMENTAL RETIREMENT SYSTEM FOR THE CLASSIFIED FIREMEN  
EMPLOYEES OF THE FIRE DEPARTMENT OF CITY OF KINSTON.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created and established a supplemental retirement system for the members of the Fire Department of the City of Kinston to be known as the "Kinston Firemen's Supplemental Retirement System," hereinafter referred to in this act as "supplemental retirement system." The purpose of the creation and establishment of the supplemental retirement system, as provided for in this act, shall be to increase, augment and add to the benefits received by the firemen of the City of Kinston who have already retired and who may hereafter retire and become eligible for benefits under the provisions of the North Carolina Local Government Employees' Retirement System in the sums and amounts hereafter provided under this act.

Sec. 2. The general administration and responsibility for the proper operation of the supplemental retirement system herein created and established and for the carrying out and making effective the provisions of this act are hereby vested in a Board of Trustees who shall be chosen and selected as follows:

(a) Two members of said Board of Trustees shall be chosen from the membership of the Kinston Fire Department and shall be elected by a majority vote of the uniformed members of the Fire Department of the City of Kinston; one of said members shall hold office for a period of one year, and the other member so appointed shall hold office for a period of two years; thereafter, each of said two members chosen from the Kinston Fire Department shall be appointed for a term of office consisting of a period of two years each.

(b) One member shall be appointed by the Commissioner of Insurance and for a term consisting of two years.

(c) Two members of said Board of Trustees shall be appointed by the Kinston City Council by a majority vote of the members thereof; one of said members shall hold office for a period of one year and the other member so appointed shall hold office for a period of two years; thereafter each of said two members appointed by the Kinston City Council shall be appointed for a term of office consisting of a period of two years each.

All members of the Board of Trustees shall be elected or appointed as specified in subsections 2(a), (b) and (c) prior to the fourth Monday in May. They shall take office on the first Monday in June. Any member of said Board of Trustees shall be eligible to succeed himself or herself, and all vacancies occurring in the membership of

the Board of Trustees by death, resignation, disqualification or otherwise shall be filled by a special election of the members elected in subsections 2(a) and (c), to fill the unexpired term, and likewise by special appointment under subsection 2(b).

(d) The Board of Trustees shall be organized immediately after the trustees provided for in this section shall have qualified and taken the oath of office. The Board of Trustees shall be a body politic and corporate under the name of the Board of Trustees of Kinston Firemen's Supplemental Retirement System, and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive and demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, convey or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof and shall not be subject to income taxes.

(e) The Board of Trustees may purchase with funds received under and by virtue of their office any bond, certificate or other evidence of debt or ownership in which the City of Kinston is legally entitled to invest as now or hereafter provided by the General Statutes of North Carolina, not exceeding the amount guaranteed or insured by the United States Government or any agency thereof.

(f) The members of the Board of Trustees of the Kinston Firemen's Supplemental Retirement System shall serve without compensation, but they shall be reimbursed from the fund for all necessary expenses incurred through service upon said board.

(g) Each trustee shall, within 10 days after his appointment, take an oath of office before the mayor that, so far as it devolves upon him, he will diligently and honestly administer the affairs of said board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the city clerk.

(h) The Board of Trustees shall hold meetings at least semi-annually at such time and place as the board may determine. In addition thereto, the chairman or vice-chairman of the Board of Trustees may call special meetings and upon request of two members of the Board of Trustees in writing, shall call a special meeting of the Board of Trustees. When so called, the secretary shall give notice in person or by special delivery mail to all members of the board at least 24 hours prior to such meeting, specifying the purpose of such meeting and time and place. The business of the special meeting shall be limited to the purpose as set forth in the notice.

(i) Each trustee shall be entitled to one vote. Three affirmative votes shall be necessary for a decision by the trustees at any meeting of said board and the chairman shall only vote in case of a tie.

(j) The chairman shall preside at all meetings and in his absence the vice-chairman shall preside.

(k) The chairman, vice-chairman and secretary-treasurer of the Kinston Firemen's Supplemental Retirement System shall be elected by the Board of Trustees from the

membership of the board at the first organizational meeting and thereafter at the first regular meeting in each year.

(l) Subject to the limitations of this act, the Board of Trustees shall, from time to time, establish rules and regulations for the administration of and eligibility for employee benefit payments from the funds created by this act and for the transaction of its business. The Board of Trustees shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices and inequalities which might arise in the administration of this act.

(m) The secretary-treasurer shall keep in convenient form, at a place designated by the trustees, such financial, administrative and other data as shall be necessary for evaluating the system, its financial condition, its actuarial soundness and for checking the expenses of the system.

(n) The Board of Trustees shall keep a written record of all of its proceedings which shall be open to public inspection. It shall publish at the end of each fiscal year a report showing the fiscal transactions of the system for the preceding year investments, the amount of the accumulated cash of the system, and the last balance sheet showing the financial condition of the system, including the valuation of the assets and liabilities of the retirement system. A copy of such annual report shall be provided to each of the fire stations of the City of Kinston and the city manager of the City of Kinston. The term "fiscal year," as used in this act, shall be defined to mean the period from July 1st to June 30th, inclusive.

(o) The attorney or attorneys for the City of Kinston shall be the legal adviser or advisers to the Board of Trustees unless the trustees vote otherwise. Any attorney employed by the trustees shall be paid from funds of the system.

(p) The secretary-treasurer shall handle and be responsible for all funds and shall furnish a bond in an amount determined by the Board of Trustees. The bond shall be paid from funds of the system. He shall be custodian of all funds paid into the Kinston Firemen's Supplemental Retirement System and shall deposit said funds in a bank or banks and other financial institutions approved and designated by the Board of Trustees and permitted by the General Statutes of North Carolina. All payments from such funds shall be made by him only upon voucher signed by two persons designated by the Board of Trustees. The books of the system shall be audited every two years and when a new treasurer is elected, by a certified public accountant. The audit report shall be presented at the first regular meeting following election of a new treasurer or the first regular board meeting in a fiscal year.

(q) No member of the Board of Trustees shall be personally liable by reason of his service as a trustee for any acts performed by him as a trustee, except for malfeasance in office.

(r) **Trustee Member Disqualified.** In the event any uniformed member shall make application for benefits under this act, and shall at such time be serving as a member of the Board of Trustees, he shall first disqualify himself and his vacancy shall be filled before the Board of Trustees receives such application.

Sec. 3. There is hereby created and established in the Kinston Firemen's Supplemental Retirement System a fund to be known as the "supplemental retirement

fund" and hereinafter referred to as the "fund". The fund shall consist of all moneys in the Firemen's Relief Fund as of the effective date of this act and funds paid into the system from the Firemen's Relief Fund of the City of Kinston from time to time and as provided by law; all gifts of money, property of all kinds and description, proceeds from the sale of property of all kinds and description, all moneys, funds or property transferred to the fund by will, devise, bequest or by other means provided by law for the transfer or devolution of property; donations and gifts made by the firemen of the City of Kinston, investments, earnings on investments, interest, dividends and any other funds or property that may accrue to the fund. The Board of Trustees is authorized to accept gifts, devises and bequests, and any property or funds that may in anywise be transferred by operation of law. The moneys and property of the fund may be invested by the Board of Trustees as heretofore provided in this act. Refunds may be made from the fund to anyone entitled thereby by reason of clerical mistake or any clerical error or inadvertence. The fund shall be liable for the payment of eligible supplemental benefits hereinafter referred to and defined. Any donations made to the Kinston City Fire Department in excess of the amount of one hundred dollars (\$100.00) may be given and transferred to the fund by a majority vote of the members of the Kinston City Fire Department. The fund shall be liable for all reasonable and necessary expenses of administration as shall be determined by the Board of Trustees.

Sec. 4. For the purpose of this section "supplemental benefit" as used in this section shall be defined to mean any sum of money payable by the fund to a fireman of the Kinston City Fire Department who retires from the Local Governmental Employees' Retirement System, as established by Article 3 of Chapter 128 of the General Statutes of North Carolina, including disability retirement, as provided in said system. All firemen of the Kinston City Fire Department, who retire from the Local Governmental Employees' Retirement System, including disability retirement, as provided in said system, and who satisfy all other rules and regulations determining eligibility promulgated by the trustees, shall receive a minimum supplemental benefit of fifty dollars (\$50.00) per month, except that the total amount paid all retired members of the Kinston City Fire Department shall not exceed eighty percent (80%) of the income received by the fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources. In the event that eighty percent (80%) of the income above mentioned is insufficient to pay such minimum of fifty dollars (\$50.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Kinston City Fire Department. Each retired fireman receiving supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month; provided, that the maximum payment to any retired member of the Kinston City Fire Department from said fund shall be one hundred dollars (\$100.00) per month. All amounts received for the fund, except eighty percent (80%) of the interest and funds received from other sources, which is to be used for the payment of supplemental benefits to retired members of the Kinston City Fire Department, as herein provided, together with any part of said eighty percent (80%) which is not paid out during the next fiscal year, shall become a part of said fund and may be invested as provided in this act. Should any

fireman die, subsequent to the payment of a supplemental benefit for any preceding month and prior to the payment of any supplemental benefit in the month in which such fireman dies, then such supplemental benefit for that month shall be paid to the deceased fireman's personal representative. The Board of Trustees shall have the authority and power to promulgate rules and regulations governing amounts of benefit payments and eligibility therefor, not inconsistent with the General Statutes governing same, to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought.

Sec. 5. The provisions of Section 4 of this act shall not become effective as to the payment of any supplemental benefits thereunder until on and after October 1, 1986.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. None of the provisions of this act shall create an additional liability for the Kinston Firemen's Supplemental Retirement System unless sufficient current assets are available in the fund to pay fully for the additional liability.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.