

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 609
HOUSE BILL 604

AN ACT TO AMEND AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF TARBORO AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6, AND 118-7 TO THE TOWN OF TARBORO.

The General Assembly of North Carolina enacts:

Section 1. Chapter 157 of the 1985 Session Laws is rewritten to read:

"Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the Town of Tarboro, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Tarboro Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for the Fund, separate from the books of account of the Firemen's Local Relief Fund of the Town of Tarboro, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of Tarboro shall:

(1) prior to January 1, 1974, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of twenty-five thousand dollars (\$25,000);

(2) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than twenty-five thousand dollars (\$25,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of twenty-five thousand dollars (\$25,000);

(3) as soon as practicable after January 1 of each year, but in no event later than July 1, distribute the sum of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5 the income earned in the preceding calendar year upon investments of funds belonging to the Local Relief Fund and the income earned in the preceding calendar year upon investments of funds belonging to the Supplemental Retirement Fund as Supplemental Retirement benefits in accordance with Section 3 of this act; provided, however, any funds not paid out as benefits as set forth in Section 3 of this act, shall become a part of the Supplemental Retirement Fund.

Sec. 3. Supplemental Retirement Benefits. (a) Each fireman, whether a volunteer, fully paid, or part paid, and each volunteer fireman who retired as a volunteer

fireman, even if he thereafter accepts or continues employment as a fully paid fireman, who retired subsequent to January 1, 1970, with 20 years or more service and who has attained the age of 55, is entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit as hereinafter set forth. The total annual payments may not exceed ninety percent (90%) of the annual income of the Fund. The total amount to be distributed is at the discretion of the Board of Trustees. Individual payments may not exceed the yearly individual amount paid by the North Carolina State Firemen's Pension Fund. In the year of retirement or in the year of death after retirement, payment shall be prorated by the month. Credit for a whole month shall be given for service for at least 15 days of the last month of service. Firemen retiring prior to December 15 shall receive their pro rata payment at the next annual payment date.

(b) Any fireman retiring after December 15 will receive no benefits the following year. Full benefits shall be awarded following the first full year of retirement. Death benefits shall be awarded, prorated by the month for the year in which death occurs. Final payment shall be made during the calendar year following death.

(c) Any fireman who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to these benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina, certified that he was at this time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or any other department of the town a position of employment, the normal duties he was capable of performing.

(d) Any fireman who transfers into the Tarboro Fire Department may transfer his longevity to the fire department but shall remain active for a period of five years in the Tarboro Fire Department to become eligible to participate in the Tarboro Supplemental Retirement Fund. Time spent in the Tarboro Fire Department will be prorated, based upon his years of service with the Tarboro Fire Department, as follows:

- (1) after service for at least five years, twenty-five percent (25%);
- (2) after service for at least 10 years, fifty percent (50%);
- (3) after service for at least 15 years, seventy-five percent (75%); and
- (4) after service for at least 20 years, one hundred percent (100%).

(e) Any member transferred to the Tarboro Fire Department, who becomes disabled while performing his duties in the Tarboro Fire Department shall be entitled to full benefits regardless of his number of years of service.

(f) Any member transferred to the Tarboro Fire Department who becomes unable to perform his duties for reason of sickness or injury not in the line of duty, shall be entitled to benefits as listed in Section 3, subsection (d).

(g) If, for any reason, the fund is insufficient to pay in full any pension benefits, or other charges, then all benefits 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 benefit payment has been reduced.

Sec. 4. Intention. It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only from the income derived in any calendar year from funds received pursuant to the provisions of Section 2, subsection (c). It is the intention of Section 2 of this act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (c) shall be held in trust, and that no funds paid to the Supplemental Retirement Fund pursuant to subsections (a) and (c) thereof or as a gift, grant, bequest, or donation to such Fund may ever be disbursed except as and when required by Section 2(b).

Sec. 5. Investment of Funds. The Board of Trustees may invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30, and only in the accordance with the provisions thereof, and shall invest all of the funds of the Supplemental Retirement Fund in one or more of these investments.

Sec. 6. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees and conditioned upon the faithful performance of his duties; this bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums of the bond of the Treasurer.

Sec. 8. None of the provisions of this act shall create a liability for the Tarboro Firemen's Supplemental Retirement Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 9. If any provisions of this act are declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 10. All laws and clauses of laws in conflict with this act are hereby repealed."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of July, 1987.