

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 640
HOUSE BILL 2065

AN ACT TO AMEND THE CHARLOTTE FIREFIGHTERS' RETIREMENT
SYSTEM ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws, and Chapter 248 of the 1989 Session Laws, is amended by adding a new subdivision to read:

"(9a) 'Death Benefit Recipient' means any person who is in receipt of benefits payable as specified in Section 21."

Sec. 2. Section 4 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws, reads as rewritten:

"Sec. 4. Periods of ~~Worker's~~ Workers' Compensation & Accident and ~~Sickness~~ ~~Sickness~~, Family Medical Leave Act, and Long-Term Disability Benefits. Membership Service Credit shall be credited to a Member for any periods of workers' ~~compensation and/or compensation~~, accident and ~~sickness~~ sickness, Family Medical Leave Act, or long-term disability benefits for which said Member contributes to the Charlotte Firefighters' Retirement System an amount equal to the Compensation the Member would have earned multiplied by the sum of the then current social security contribution rate and five percent (5%). Such contributions must be made within a 12 calendar month period from and after the date the Member returns to employment with the Charlotte Fire Department and prior to the Member's termination of membership or retirement."

Sec. 3. Chapter 926 of the 1947 Session Laws is amended by adding a new section to read:

"Sec. 13.1. **Direct Rollover of Eligible Rollover Distributions.** (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) **Definitions.**

(1) **Eligible rollover distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life

(or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

- (2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- (4) Direct rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee."

Sec. 4. Section 19 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws, Chapter 248 of the 1989 Session Laws, and Chapter 830 of the 1991 Session Laws, reads as rewritten:

"Sec. 19. **Disability Retirement in the Line of Duty.** (a) An 'Application for Disability Retirement in the Line of Duty' shall be filed by the Member or his department head with the Administrator, provided that the Member has applied for and been granted workers' compensation benefits on account of this disability.

(b) An 'Application for Disability Retirement in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner.

(c) Effective July 1, 1986, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to seventy-two percent (72%) of his Final Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective July 1, 1987, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to the greater of seventy-two percent (72%) or two and four-tenths percent (2.4%) multiplied by his Membership Service, of his Final Average Salary, not to exceed one hundred percent (100%) of Final Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective July 1,

1988, prior to his retirement pursuant to the provisions of this Section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this Section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this Section shall be effective on the date of approval by the Board of Trustees or upon exhaustion of workers' compensation benefits, whichever is later. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the Charlotte Fire Department at such time as the Retiree's attained age and Membership Service Credit meet the requirements for a service retirement."

Sec. 5. Section 20 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws, Chapter 1033 of the 1987 Session Laws, Chapter 248 of the 1989 Session Laws, and Chapter 830 of the 1991 Session Laws, reads as rewritten:

"Sec. 20. **Disability Retirement not in the Line of Duty.** (a) An 'Application for Disability Retirement not in the Line of Duty' shall be filed by a Member or his department head with the Administrator, provided that the Member has 10 or more years of Membership Service Credit and has applied for and been granted accident and sickness benefits on account of the disability.

(b) An 'Application for Disability Retirement not in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner.

(c) Effective July 1, 1986, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to thirty-six percent (36%) of his Final Average Salary, plus one and eight-tenths percent (1.8%) of his Final Average Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed one hundred percent (100%) of his Final Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this section shall be effective on the date of approval by the Board of

Trustees. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the Charlotte Fire Department at such time as the retiree's attained age and Membership Service Credit meet the requirements for a service retirement."

Sec. 6. Section 23 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws and Chapter 248 of the 1989 Session Laws, reads as rewritten:

"Sec. 23. **Post-Retirement Adjustments.** (a) The retirement benefits payable to a Retiree pursuant to the provisions of this act may be adjusted at the discretion of the Board of Trustees based upon the prevailing economic and funding conditions. Such adjustment shall not be paid until such adjustment is ratified by the City of Charlotte.

(b) Effective July 1, 1989, the Board of Trustees shall make an annual bonus payment in the month of January following an annual actuarial valuation when the actuary determines that the actual payroll contributions exceed the required contributions adjusted for any actuarial gains and losses that may have occurred during the preceding year. The lesser of fifty percent (50%) of the excess amount determined by the actuary or the aggregate monthly benefit of the Retirees eligible for the bonus shall be distributed. A Retiree who has been retired for at least one year as of December 31, preceding distribution of the bonus, shall receive a bonus that is determined by the Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly benefits of all Retirees eligible for the bonus.

(c) Effective July 1, 1994, the provisions of this Section shall apply to surviving beneficiaries and death benefit recipients receiving benefits from the Charlotte Firefighters' Retirement System."

Sec. 7. Section 25 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws, reads as rewritten:

"Sec. 25. **City of Charlotte Contributions.** (a) The City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Member's Compensation multiplied by the sum of the then current social security contribution rate and five percent (5%), for each and every payroll of such Member.

(b) Should any Member of this Retirement System enter the Armed Forces of the United States of America, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System for each and every payroll an amount equal to the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to subsection (a) of this section for a period not to exceed the lesser of the Member's actual period of active military duty or five years.

(c) Should any Member of the Retirement System enter the Armed Forces of the United States of America, upon approval by the City Council, the City of Charlotte by and on behalf of such Member may contribute an amount equal to, but not to exceed,

the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to Section 24 of this act. Any contributions by and on behalf of such Member shall inure to the benefit of such Member as though made by such Member under the provisions of this act unless otherwise specified in this act.

(c1) Should any Member of the Retirement System contribute an amount pursuant to Section 4 for the purpose of receiving Membership Service Credit for any period of Family Medical Leave Act benefits, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Compensation that Member would have earned multiplied by the then current social security contribution rate and five percent (5%).

(d) In addition thereto, the City Council may, within its discretion and upon the recommendation of the Board of Trustees, appropriate funds necessary to provide a cost of living increase to the Retirees of the System."

Sec. 8. Section 29 of Chapter 926 of the 1947 Session Laws, as rewritten by Chapter 506 of the 1987 Session Laws and Chapter 248 of the 1989 Session Laws, and Chapter 830 of the 1991 Session Laws, reads as rewritten:

"Sec. 29. **Board of Trustees.** (a) The Board of Trustees shall consist of 11 Trustees, as follows: (i) City Manager, or some other City department head or employee as duly designated by the City Manager; (ii) City Finance Director, or a deputy finance director as duly designated by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and who are residents of Mecklenburg County and who are appointed by the Resident Judge of the Superior Court of Mecklenburg County and who shall hold office for a period of three years or until their successor shall have been appointed and been qualified; (v) three Members of the Retirement System to be elected by a ~~Majority Vote~~ vote of the Members of the Retirement System for a term of three ~~years~~ years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation; and (vi) one Retiree of the Retirement System to be elected by a vote of the Retirees of the Retirement System for a term of three ~~years~~ years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation. The terms of office for elected Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that only one Trustee's term shall expire each year. Any Member shall be eligible to succeed himself as a Trustee.

(b) Conflict of Interest. No trustee, chairman, or other officer or employee of the Charlotte Firefighters' Retirement System shall directly or indirectly become an independent contractor for work done by, or on behalf of, the System, or become directly or indirectly financially interested in, or receive profits from any purchase, contract, or association by or with the System."

Sec. 9. This act becomes effective July 1, 1994.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives