

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 877

Short Title: Charlotte Firefighters' System.

(Local)

Sponsors: Representative Grimmer.

Referred to: Pensions and Retirement.

March 27, 1989

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"Sec. 2. **Definitions.** The following words and phrases as used in this act shall have the indicated meanings unless a different meaning is clearly required by the context.

(1) 'Accrued Benefit' means the amount of monthly retirement benefits earned by a Member computed, as of any date, on his Final Average Salary and Membership Service Credit as of such date. In no event shall the Accrued Benefit be less than the Accrued Benefit as of June 30, 1986.

(2) 'Actuarial Equivalent' means a benefit payable by the System that is determined by the Actuary to be equal to the basic benefit provided by the System based on the interest rate and the mortality and other tables and assumptions adopted for such purposes by the Board of Trustees. In no event shall any Actuarial Equivalent be less than the corresponding Actuarial Equivalent as of June 30, 1987, based on the Accrued Benefit and the assumptions in effect on that date.

(3) 'Actuarial Valuation' or 'Valuation' means a determination of the normal costs, actuarial accrued liability, actuarial value of assets and related actuarial present values of the System performed by an Actuary which are based on the characteristics of the System. Such characteristics include, but are not limited to, age, service, salaries, and rate of turnover by death, disability, termination or retirement.

1 (3a) 'Adjustment Factor' means the cost of living adjustment factor prescribed
2 by the Secretary of the Treasury under section 415(d) of the Code for years beginning
3 after December 31, 1987, applied to those items and in the manner the Secretary
4 prescribes.

5 (4) 'Armed Forces' means the Armed Forces of the United States of America.

6 (5) 'Audit' means an examination of the accounting records of the System
7 performed by a certified public accountant or certified public accounting firm. Such
8 examination is to determine if said records are properly maintained and to make
9 recommendations and suggestions for better record-keeping and management.

10 (6) 'Beneficiary', 'Designated Beneficiary', or 'Surviving Beneficiary' means
11 any person, or persons, who is in receipt of, or who is designated in writing to receive, a
12 retirement benefit or other benefit as provided in this act.

13 (7) 'Board of Trustees', 'Board' or 'Trustee' means the Board of Trustees of
14 the Charlotte Firefighters' Retirement System, as specified in ~~Section 6.03,~~ Section 29, or
15 any individual member thereof.

16 (8) 'City' means the City of Charlotte.

17 (8a) 'Code' means the Internal Revenue Code of 1986, as amended.

18 (9) 'Compensation' means the remuneration earned by a Member for services
19 performed as an employee of the Charlotte Fire Department and for which contributions
20 are made to the System. ~~Compensation shall include regular wages, longevity pay, overtime~~
21 ~~(hire-back) pay, bonus payments, funeral leave, jury duty, used vacation pay, used sick leave,~~
22 ~~paid military reserve duty (paid by City), used compensatory and court time, and used holiday~~
23 ~~pay. Compensation also includes any amounts for which contributions are made by a Member~~
24 ~~to receive Membership Service Credit for any period(s) of workers' compensation and/or~~
25 ~~accident and sickness benefits. Compensation does not include terminal payments for unused~~
26 ~~sick leave, unused vacation pay, unused compensatory and court time, and/or unused holiday~~
27 ~~pay. Also, Compensation does not include worker's compensation payments and/or~~
28 ~~supplemental payments from the City, accident and sickness benefits, reimbursement for~~
29 ~~scheduled and/or unscheduled mileage, and/or remuneration from the City for services~~
30 ~~performed outside his employment with the Charlotte Fire Department. Compensation shall~~
31 include compensation received during the applicable period by the Member from the
32 City for services performed as an employee of the Charlotte Fire Department during the
33 taxable year ending with or within the Plan Year that is required to be reported as wages
34 on the Member's Form W-2. Compensation also includes compensation realized during
35 the applicable period that is not currently includable in the Member's gross income by
36 reason of the application of sections 125, 402(a)(8), 402 (h)(1)(B), 403(b), or 457 of the
37 Code. For the purpose of calculating a Member's Final Average Salary, any lump sum
38 payments for which contributions were made to the System, such as longevity pay and
39 bonus payments, and received by said Member within two consecutive years of
40 Membership Service shall be apportioned over the previous Membership Service for
41 which the payment(s) was earned.

42 (10) 'Effective Date' of this amended and restated act means ~~July 1, 1987,~~
43 July 1, 1989, unless otherwise specified herein.

44 (11) 'Final Average Salary' means the monthly average Compensation
45 received by a Member any two consecutive years of Membership Service which

1 produces the highest average and is contained within the Member's last five years of
2 Membership Service. If a Member has less than two years of Membership Service, his
3 Final Average Salary shall mean the monthly average Compensation for his total
4 Membership Service. Effective July 1, 1989, if the Member's monthly benefit, as
5 calculated pursuant to Section 15(a) of this act, exceeds one hundred percent (100%) of
6 his Final Average Salary, as defined by this subdivision, then 'Final Average Salary'
7 means the monthly average Compensation received by a Member during any three
8 consecutive years of Membership Service during which the Member was an active
9 Member of the Retirement System and had the greatest aggregate Compensation from
10 the City. If a Member has fewer than three years of Membership, his Final Average
11 Salary shall mean the monthly average Compensation for his total Membership Service.

12 (12) 'He', 'Him', 'His', and any other pronouns and terms shall be used when
13 referring to both male and female Members and/or Beneficiaries of this System, and
14 vice versa.

15 (13) 'Investment Fiduciary' means any person, or persons, who exercises any
16 discretionary authority or control in the investment of the System's assets and/or renders
17 investment advice for a fee to the System.

18 (14) 'Majority Vote' means that number of votes which is more than fifty
19 percent (50%) of the System Members casting ballots.

20 (15) 'Member' means a uniformed employee of the Charlotte Fire
21 Department.

22 (16) 'Membership Service Credit' or 'Membership Service' means the
23 amount of service credited to a Member as provided in this act to determine what, if
24 any, benefits are due him.

25 (17) 'Participant' means any Member, Retiree, Beneficiary in receipt of
26 benefits or a former Member with a deferred Accrued Benefit.

27 (17a) 'Qualified Participant' means a Participant who is in a defined benefit
28 plan that is maintained by a State or a political subdivision thereof; and

29 a. Who has at least 15 years of Membership Service Credit as a
30 full-time employee of any police department or fire department
31 that is organized and operated by the State or a political
32 subdivision, that maintains such a defined benefit plan; or

33 b. Who is a member of the armed forces of the United States.

34 (18) 'Retiree' means any person who retires with a retirement benefit payable
35 by the System.

36 (19) 'Retirement System' or 'System' means the Charlotte Firefighters'
37 Retirement System.

38 (20) 'Total Contributions' means the sum of the amounts paid by or on behalf
39 of a Member and credited to his individual account by the System.

40 (21) ~~'Year' or 'Plan Year'~~ 'Year,' 'Plan Year,' or 'Limitation Year' means the
41 twelve months from July 1st through June 30th."

42 Sec. 2. Section 3 of Chapter 926, 1947 Session Laws, as rewritten by Chapter
43 506, 1987 Session Laws, reads as rewritten:

1 "Sec. 3. **General.** A Member of this Retirement System shall receive Membership
2 Service Credit for all periods of employment with the Charlotte Fire Department for
3 which contributions have been paid to, and not subsequently refunded by, the Charlotte
4 Firefighters' Retirement System. In no case shall more than one year of Membership
5 Service Credit be credited a Member for any 12 calendar month period of time.
6 ~~Membership Service Credit shall not be credited a Member after said Member attains age 70~~
7 ~~years.~~

8 Sec. 3. The caption of Section 7 of Chapter 926, 1947 Session Laws, as
9 rewritten by Chapter 506, 1987 Session Laws, reads as rewritten :

10 "Purchase of ~~Active Military Duty~~ Membership Service Credit for Prior Active Military
11 Duty."

12 Sec. 4. Section 10 of Chapter 926, 1987 Session Laws, as rewritten by
13 Chapter 506, 1987 Session Laws, reads as rewritten:

14 "Sec. 10. **Member With Less Than ~~Ten~~ Five Years of Membership Service**
15 **Credit.** (a) If a Member with less than ~~ten~~ five years of Membership Service Credit
16 with this Retirement System shall cease employment with the Charlotte Fire
17 Department, whether voluntary or involuntary, said former Member shall thereupon
18 cease membership and shall be entitled to reimbursement of the Total Contributions
19 made by or on his behalf to the Retirement System, excluding any contributions made
20 on the former Member's behalf by the City of Charlotte under the provisions of Section
21 25 of this act without interest. A former Member desiring reimbursement of said
22 contributions must complete and file the form 'Application for Refund of Accumulated
23 Contributions' with the Administrator within five years of the termination date of his
24 employment. Should a former Member fail to complete and file said form with the
25 Administrator within such five years, the Former Members shall receive reimbursement
26 of said contributions.

27 (b) If such a former Member dies within five years after terminating his
28 employment prior to receiving reimbursement of contributions pursuant to subsection
29 (a) of this section, his Designated Beneficiary(s) on file with the Retirement System or
30 his personal representative in the absence of any Designated Beneficiary, may apply for
31 reimbursement of contributions pursuant to subsection (a) of this section and must file
32 such application with the Administrator within five years of the date of death of the
33 former Member or the funds will be paid to the Designated Beneficiary, if living, or
34 otherwise to the former Member's estate."

35 Sec. 5. Section 11 of Chapter 926, 1947 Session Laws, as rewritten by
36 Chapter 506, 1987 Session Laws, reads as rewritten:

37 "Sec. 11. **Members With ~~Ten~~ Five or More Years of Membership Service**
38 **Credit.** (a) Effective July 1, 1986, if a Member with ten or more years of
39 Membership Service Credit with this Retirement System shall cease employment with
40 the Charlotte Fire Department, whether voluntary or involuntary, said Member shall
41 receive his Accrued Benefit and defer such benefit until the Participant reaches age 60
42 years. Effective July 1, 1989, if a Member with five or more years of Membership
43 Service Credit with this Retirement System ceases employment with the Charlotte Fire
44 Department, whether voluntarily or involuntarily, the Member shall receive his Accrued

1 Benefit and defer this benefit until the Participant reaches 60 years of age. The Accrued
2 Benefit shall be calculated pursuant to the provisions of Sections 15 and 17 of this act in
3 effect on the last day of work by said Participant. If such Participant dies before
4 applying for his deferred benefits and attaining age 60 years, reimbursement of the
5 Participant's contributions may be accomplished in the same manner and in all respects
6 as Section 10 of this act.

7 (b) As an alternative to the provisions of subsection (a) of this section, if a
8 Member with ~~ten-five~~ or more years of Membership Service Credit with this Retirement
9 System shall cease employment with the Charlotte Fire Department, whether voluntary
10 or involuntary, said Member shall thereupon cease membership and may elect to receive
11 reimbursement of his contributions in the same manner and in all respects as in Section
12 10 of this act."

13 Sec. 6. Section 13 of Chapter 926, 1947 Session Laws, as rewritten by
14 Chapter 506, 1987 Session Laws, is repealed.

15 Sec. 7. Section 15 of Chapter 926, 1947 Session Laws, as rewritten by
16 Chapter 506, 1987 Session Laws, reads as rewritten:

17 "Sec. 15. **Service Retirement.** A Member may upon written application through
18 the Administrator to the Board of Trustees set forth an effective date of not less than 30
19 days nor more than 90 days subsequent to the execution and filing thereof that he
20 desires to be retired, provided that he has attained the age and acquired the required
21 Membership Service Credit and has been approved by the Board:

22 (1) The age and Membership Service Credit requirements for service
23 retirement are as follows:

- 24 a. Any age and 30 or more years of Membership Service Credit;
25 b. Age 50 years or older and 25 or more, but less than 30 years of
26 Membership Service Credit; or
27 c. Effective July 1, 1986, age 60 years or older and 10 or ~~more-more~~, but
28 fewer than 25 years of Membership Service Credit. Effective July 1,
29 1989, age 60 years or older and 5 or more, but fewer than 25 years of
30 Membership Service Credit.

31 (2) Upon a Member's service retirement, he shall be paid a benefit as
32 provided in Section 17 of this act."

33 Sec. 8. Section 16 of Chapter 926, 1947 Session Laws, as rewritten in
34 Chapter 506, 1987 Session Laws, is repealed.

35 Sec. 9. Section 17(a) of Chapter 926, 1947 Session Laws, as rewritten by
36 Chapter 506, 1987 Session Laws, reads as rewritten:

37 "(a) Upon Effective July 1, 1986, upon retirement pursuant to the
38 provisions of Sections 15 or 16, a Member shall receive a monthly benefit equal to two
39 and four-tenths percent (2.4%) of his Final Average Salary multiplied by his
40 Membership Service Credit, not to exceed one hundred percent (100%) of Final
41 Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective
42 July 1, 1989, upon retirement pursuant to the provisions of Section 15, a Member shall
43 receive a monthly benefit equal to two and six-tenths percent (2.6%) of his Final
44 Average Salary multiplied by his Membership Service Credit, not to exceed one

1 hundred percent (100%) of Final Average Salary, but not less than five hundred dollars
2 (\$500.00). The benefit payable pursuant to this subsection shall be referred to as the
3 basic benefit. The effective date of this subsection is July 1, 1986."

4 Sec. 10. Section 19 of Chapter 926, 1947 Session Laws, as rewritten by
5 Chapter 506, 1987 Session Laws, reads as rewritten:

6 "Sec. 19. **Disability Retirement in the Line of Duty.** (a) ~~A Member whom the~~
7 ~~Board of Trustees finds to be totally and permanently disabled or incapacitated for duty~~
8 ~~in the employ of the Charlotte Fire Department by reason of an injury, accident or~~
9 ~~occupational disease arising out of and in the course of his actual performance of duty~~
10 ~~in his employment with the Charlotte Fire Department, may be retired by the Board of~~
11 ~~Trustees upon the filing of an 'Application for Disability Retirement in the Line of~~
12 ~~Duty' by the Member or his department head with the Administrator, provided that:~~

13 (1) ~~The Member has applied for and been granted worker's compensation~~
14 ~~benefits on account of such disability; and~~

15 (2) ~~After a medical examination of the Member, by or under the direction~~
16 ~~of the Medical Board, the Medical Board certifies to the Board in~~
17 ~~writing that the Member is totally and permanently disabled or~~
18 ~~incapacitated for duty in the employ of the Charlotte Fire Department~~
19 ~~by reason of an injury, accident or occupational disease arising out of~~
20 ~~and in the course of his actual performance of duty in his employment~~
21 ~~with the Charlotte Fire Department.~~

22 (b) ~~The Board of Trustees shall retire the Member within 90 days of its receipt of~~
23 ~~a medical report from the Medical Board that meets the requirements of subdivision~~
24 ~~(a)(2) of this section and when the Medical Board and the Board agree on such~~
25 ~~application.~~

26 (c) ~~Upon the request by the Chairman or the Board, the examining member of the~~
27 ~~Medical Board on an application for disability retirement in the line of duty shall appear~~
28 ~~at a meeting of the Board to respond to any questions of a medical nature or to render~~
29 ~~any medical opinion necessary to clarify the medical report.~~

30 (d) ~~In the event that the Medical Board shall certify that the Member is totally~~
31 ~~and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire~~
32 ~~Department by reason of an injury, accident or occupational disease arising out of and~~
33 ~~in the course of his actual performance of duty in his employment with the Charlotte~~
34 ~~Fire Department and the Board of Trustees does not agree with such certification, the~~
35 ~~Board of Trustees shall deny such application. The Member shall upon such denial be~~
36 ~~given the opportunity to respond to the Board's decision. The Member shall have the~~
37 ~~right to appeal such denial to the Civil Service Board who shall render a decision on~~
38 ~~whether the Member should or should not be retired.~~

39 (e) ~~The determination by the Board of Trustees that a Member is not entitled~~
40 ~~to disability retirement benefits under this Section provided that the Civil Service Board~~
41 ~~has not determined that he should be retired shall not prohibit such Member from filing~~
42 ~~another 'Application for Disability Retirement in the Line of Duty' at a later date,~~
43 ~~provided the application is based on additional or different facts bearing on the question~~
44 ~~of his disability.~~

1 ~~(f) The Board of Trustees shall have the authority and may require any~~
2 ~~disability Retiree who has not attained age 70 years to undergo a medical reexamination~~
3 ~~at any time not to exceed one reexamination per year by or under the direction of the~~
4 ~~Medical Board to determine if the medical condition for which the disability Retiree~~
5 ~~was retired still exists. Upon such medical reexamination, if the disability Retiree is~~
6 ~~found able to perform active duty with the Charlotte Fire Department by the Board of~~
7 ~~Trustees, he shall be reinstated in a position equal in rank to his rank at the time he was~~
8 ~~retired. Refusal by the disability Retiree to submit to such medical reexamination or~~
9 ~~refusal to return to work as a result of finding by the Board of Trustees based on a~~
10 ~~medical reexamination shall cause all retirement benefits to cease forthwith and such~~
11 ~~person shall be entitled to apply for reimbursement of the balance, if any, of his~~
12 ~~contributions to the Retirement System in the same manner and in all respects as in~~
13 ~~Section 10 of this act.~~

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

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

21 ~~(g)~~ (c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
22 Section, a Member shall receive a monthly benefit equal to seventy-two percent (72%)
23 of his Final Average Salary, not to exceed one hundred percent (100%) of Final
24 Average Salary, but not less than five hundred dollars (\$500.00) per month. Effective
25 July 1, 1987, upon retirement pursuant to the provisions of this Section, a Member shall
26 receive a monthly benefit equal to the greater of seventy-two percent (72%) or two and
27 four-tenths percent (2.4%) multiplied by his Membership Service, of his Final Average
28 Salary, not to exceed one hundred percent (100%) of Final Average Salary, but not less
29 than five hundred dollars (\$500.00) per month. Effective July 1, 1988, prior to his
30 retirement pursuant to the provisions of this Section, but not thereafter, a Member may
31 elect to receive an Actuarial Equivalent, computed as of the effective date of his
32 retirement, of his monthly amount payable throughout his life, and nominate a
33 Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint
34 and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial
35 Equivalent for all members retiring pursuant to this Section shall be computed in
36 accordance with the Unisex Mortality Table for 1984 set forward one year in age, with
37 interest at six percent (6%). Benefits payable under this Section shall be effective on
38 the date of approval by the Board of Trustees or upon exhaustion of worker's-workers'
39 compensation benefits, whichever is later."

40 Sec. 11. Section 20 of Chapter 926, 1947 Session Laws, as rewritten by
41 Chapter 506, 1987 Session Laws, reads as rewritten:

42 "Sec. 20. **Disability Retirement not in the Line of Duty.** (a) ~~A Member, with~~
43 ~~10 or more years of Membership Service Credit, whom the Board of Trustees finds to~~
44 ~~be totally and permanently disabled or incapacitated for duty in the employ of the~~

1 ~~Charlotte Fire Department by reason of an injury, accident or disease that did not arise~~
2 ~~out of and in the course of his actual performance of duty in his employment with the~~
3 ~~Charlotte Fire Department, may be retired by the board of Trustees upon the filing of an~~
4 ~~'Application for Disability Retirement Not in the Line of Duty' by the Member or his~~
5 ~~department head with the Administrator, provided that:~~

6 (1) ~~The Member has applied for and been granted accident and sickness~~
7 ~~benefits on account of such disability; and~~

8 (2) ~~After a medical examination of the Member, by or under the direction~~
9 ~~of the Medical board, the Medical Board certifies to the board in~~
10 ~~writing that the Member is totally and permanently disabled or~~
11 ~~incapacitated for duty in the employ of the Charlotte Fire Department~~
12 ~~by reason of an injury, accident or disease that did not arise out of and~~
13 ~~in the course of his actual performance of duty in his employment with~~
14 ~~the Charlotte Fire Department.~~

15 (b) ~~The Board of Trustees shall retire the Member within 90 days of its receipt of~~
16 ~~a medical report from the Medical Board that meets the requirements of subdivision~~
17 ~~(a)(2) of this section and when the Medical Board and the board agree on such~~
18 ~~application.~~

19 (c) ~~Upon the request by the Chairman or the board, the examining member of the~~
20 ~~Medical board on an application for disability retirement not in the line of duty shall~~
21 ~~appear at a meeting of the board to respond to any questions of a medical nature or to~~
22 ~~render any medical opinion necessary to clarify the medical report.~~

23 (d) ~~In the event that the Medical Board shall certify that the Member is totally~~
24 ~~and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire~~
25 ~~Department by reason of an injury, accident or disease that did not arise out of and in~~
26 ~~the course of his actual performance of duty in his employment with the Charlotte Fire~~
27 ~~Department and the Board of Trustees does not agree with such certification, the Board~~
28 ~~of Trustees shall deny such application. The Member shall upon such denial be given~~
29 ~~the opportunity to respond to the board's decision. The Member shall have the right to~~
30 ~~appeal such denial to the Civil Service Board who shall render a decision on whether~~
31 ~~the Member should or should not be retired.~~

32 (e) ~~The determination by the board of Trustees that a Member is not entitled~~
33 ~~to disability retirement benefits under this section and the Civil Service board has not~~
34 ~~determined that he should be retired, shall not prohibit such Member from filing another~~
35 ~~'Application for Disability Retirement Not in the Line of duty' at a later date, provided~~
36 ~~the application is based on additional or different facts bearing on the question of his~~
37 ~~disability.~~

38 (f) ~~The Board of Trustees shall have the authority and may require any disability~~
39 ~~Retiree who has not attained age 70 to undergo a medical reexamination at any time not~~
40 ~~to exceed one reexamination per year by or under the direction of the Medical board to~~
41 ~~determine if the medical condition for which the disability Retiree was retired still~~
42 ~~exists. Upon such medical reexamination, if the disability Retiree is found able to~~
43 ~~perform active duty with the Charlotte Fire Department by the Board of Trustees, he~~
44 ~~shall be reinstated in a position equal in rank to his rank at the time he was retired.~~

~~1 Refusal by the disability Retiree to submit to such medical reexamination or refusal to
2 return to work as a result of a finding by the Board of Trustees based on a medical
3 reexamination shall cause all retirement benefits to cease forthwith and such person
4 shall be entitled to apply for reimbursement of the balance, if any, of his contributions
5 to the Retirement System in the same manner and in all respects as in Section 10 of this
6 act.~~

7 (a) An 'Application for Disability Retirement not in the Line of Duty' shall be filed by a
8 Member or his department head with the Administrator, provided that the Member has
9 10 or more years of Membership Service Credit and has applied for and been granted
10 accident and sickness benefits on account of the disability.

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

~~15 (g)(c) Effective July 1, 1986, upon retirement pursuant to the provisions of this
16 section, a Member shall receive a monthly benefit equal to thirty-six percent (36%) of
17 his Final Average Salary, plus one and eight-tenths percent (1.8%) of his Final Average
18 Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed
19 one hundred percent (100%) of his Final Average Salary, but not less than five hundred
20 dollars (\$500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to
21 the provisions of this section, but not thereafter, a Member may elect to receive an
22 Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly
23 amount payable throughout his life, and nominate a Beneficiary in accordance with the
24 provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth
25 in subsection (g) of Section 17. The Actuarial Equivalent for all members retiring
26 pursuant to this section shall be computed in accordance with the Unisex Mortality
27 Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits
28 payable under this section shall be effective on the date of approval by the Board of
29 Trustees."~~

30 Sec. 12. Section 21(a) of Chapter 926, 1947 Session Laws, as rewritten by
31 Chapter 506, 1987 Session Laws, reads as rewritten:

32 "(a) In the event of the death of any Member of the System prior to his effective
33 date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act,
34 his Designated Beneficiary(s) on file with the Retirement System, or his personal
35 representative in the absence of any Designated Beneficiary, shall be entitled to
36 reimbursement of the total Contributions by him and the City of Charlotte to the
37 System, plus, effective July 1, 1986, two and five-tenths percent (2.5%) interest
38 compounded annually on the contribution balance at the beginning of each Plan Year.
39 Such Beneficiary(s) or personal representative must complete and file the form
40 'Application for Survivor Death Benefits' with the Administrator to receive
41 reimbursement. As an option, a Beneficiary may elect to receive an annuity equal to
42 and in lieu of a lump sum distribution by so designating on the above form. Effective
43 July 1, 1989, as an option, a surviving spouse of a deceased Member who was eligible
44 for a service or early retirement benefit on the date preceding death may elect to receive

1 an Actuarial Equivalent computed as of the date preceding death in the same manner as
2 if the deceased member had retired and elected a reduced monthly amount payable
3 throughout his life, and nominated the surviving spouse as his beneficiary in accordance
4 with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66 2/3%) Joint and
5 Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial Equivalent
6 for all benefits payable pursuant to this section shall be computed in accordance with
7 the Unisex Mortality Table for 1987 set forward one year in age, with interest at six
8 percent (6%)."

9 Sec. 13. Section 23 of Chapter 926, 1947 Session Laws, as rewritten by
10 Chapter 506, 1987 Session Laws, reads as rewritten:

11 "Sec. 23. Post-Retirement Adjustments.

12 (a) The retirement benefits payable to a Retiree pursuant to the provisions of this
13 act may be adjusted at the discretion of the Board of Trustees based upon the prevailing
14 economic and funding conditions. Such adjustment shall not be paid until such
15 adjustment is ratified by the City of Charlotte.

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

26 Sec. 14. Section 29 of Chapter 926, 1947 Session Laws, as rewritten by
27 Chapter 506, 1987 Session Laws, reads as rewritten:

28 "Sec. 29. **Board of Trustees.** The Board of Trustees shall consist of 10 Trustees, as
29 follows: (i) City Manager, or some other City department head or employee as duly
30 designated by the City Manager; (ii) City Finance Director, or a deputy finance director
31 as duly designated by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of
32 the Board and three Trustees to represent the public and who are residents of
33 Mecklenburg County and who are appointed by the Resident Judge of the Superior
34 Court of Mecklenburg County and who shall hold office for a period of three years or
35 until their successor shall have been appointed and been qualified; and (v) three
36 Members of the Retirement System to be elected by a Majority Vote of the Members of
37 the Retirement System for a term of three years. The terms of office for elected
38 Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that
39 only one Trustee's term shall expire each year. Any Member shall be eligible to succeed
40 himself as a Trustee."

41 Sec. 15. Section 51(4) of Chapter 926, 1947 Session Laws, as rewritten by
42 Chapter 506, 1987 Session Laws, reads as rewritten: ♦

43 "(4) Notwithstanding any provision of the Retirement System to the contrary, the
44 maximum annual benefit payable in the form of a straight life annuity from the

1 Retirement System on behalf of a Participant, when combined with any benefits from
2 another qualified benefit plan maintained by the City, shall not exceed the amount as
3 provided in this section. If the normal form of payment is other than a straight life
4 annuity or a qualified joint and survivor annuity, the amount so determined hereunder
5 shall be adjusted on an actuarially equivalent basis to reflect such other payment form.

6 If a Participant has completed 10 or more years of service, the maximum annual benefit
7 payable in accordance with this subdivision (4) shall be the lesser of a. and b. below:

8 a. Ninety thousand dollars (\$90,000) (or, beginning January 1, 1988),
9 such larger dollar amount as the Commissioner of Internal Revenue
10 may prescribe. Such amount shall be the maximum annual benefit
11 pursuant to this subdivision a. for that calendar year and shall apply to
12 the limitation year ending with or within that calendar year.

13 b. The average annual Compensation the Participant received from the
14 City during the ~~two~~-three consecutive calendar years which would
15 produce the highest such average.

16 If a Participant has completed less than 10 years of service, the maximum annual benefit
17 payable in accordance with this subdivision (4) shall be the lesser of subdivisions a. and
18 b. above, multiplied by the ratio that the Participant's actual number of years of service
19 bears to 10.

20 If the payment of a benefit to a Participant begins after he attains age 65, the
21 maximum benefit shall be actuarially adjusted to that amount that, if paid in the same
22 form and beginning at the same time as the benefit, would be the actuarial equivalent of
23 the maximum benefit that was payable in the normal form of retirement allowance
24 beginning on the first day of the month coincident with or next following the
25 Participant's attainment of age 65.

26 If the payment of a benefit to a Participant begins before he attains age 62, the
27 maximum benefit shall be actuarially adjusted to that amount which, if paid in the same
28 form and beginning at the same time as his benefit, would be the actuarial equivalent of
29 the maximum benefit payable in the normal form of retirement allowance beginning on
30 the first day of the month coincident with or next following his attaining the age of 62.
31 The reductions required by this paragraph shall in no event reduce the limitation in this
32 subdivision a. below seventy-five thousand dollars (\$75,000), if the benefit begins on or
33 after the Participant's attainment of age 55 or the actuarial equivalent of the seventy-five
34 thousand dollars (\$75,000) benefit limitation for age 55, if the benefit begins prior to
35 such age.

36 For purposes of this subdivision (4), if benefits begin before age 62, the
37 maximum annual benefit payable shall be adjusted by an interest rate assumption not
38 less than the greater of five percent (5%) or the rate specified in the Retirement System.
39 For purposes of this subdivision (4), in addition to the above limitations, if a Participant
40 is a Qualified Participant as defined in Title 1, Section 2 (17a) of this act, the actuarial
41 reduction to the maximum benefit payable for benefits that begin prior to the attainment
42 of age 55 shall not be reduced to an amount less than fifty thousand dollars (\$50,000). If
43 payment of a Participant's benefit begins after age 65, the maximum annual benefit

1 payable shall be adjusted by an interest rate assumption not greater than the lesser of
2 five percent (5%) or the rate specified in the Retirement System.

3 In the event a Participant is covered by one or more defined benefit plans
4 maintained by the City, all such plans shall be aggregated in determining whether the
5 maximum benefit limitations hereunder have been met. Further, the maximum
6 retirement allowance as noted above may be decreased as determined necessary by the
7 City to ensure that all plans will remain qualified under the Internal Revenue Code of
8 1986, as amended from time to time.

9 In addition to the other limitations set forth in the Retirement System and
10 notwithstanding any other provisions of the Retirement System, the Accrued Benefit,
11 including the right to any optional benefit provided in the Retirement System (and all
12 other defined benefit plans required to be aggregated with the Retirement System under
13 the provisions of Section 415 of the Internal Revenue Code of 1986, as amended from
14 time to time), shall not increase to an amount in excess of the amount permitted under
15 Section 415 of the Internal Revenue Code of 1986, as amended from time to time."

16 Sec. 16. Section 56 of Chapter 926, 1947 Session Laws, as rewritten by
17 Chapter 506, 1987 Session Laws, is repealed.

18 Sec. 17. All laws and clauses of laws in conflict with this act are repealed.

19 Sec. 18. This act shall apply to the City of Charlotte only.

20 Sec. 19. None of the provisions of this act shall create an additional liability
21 for the Charlotte Firefighters' Retirement System unless sufficient funds are available to
22 pay fully for the liability.

23 Sec. 20. This act is effective upon ratification.