

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 646
Finance Committee Substitute Adopted 5/31/95

Short Title: Assist Volunteer Safety Workers/AB.

(Public)

Sponsors:

Referred to:

April 11, 1995

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A WORKERS' COMPENSATION FUND FOR VOLUNTEER FIRE, RESCUE, AND EMS WORKERS, TO INCREASE THE MONTHLY PENSION BENEFITS AND THE MONTHLY PENSION CONTRIBUTIONS FOR THESE WORKERS, TO INCREASE CONTRIBUTIONS TO THE VOLUNTEER FIRE DEPARTMENT FUND, TO REIMBURSE VOLUNTEER FIRE DEPARTMENTS AND VOLUNTEER RESCUE SQUADS FOR HIGHWAY USE TAX PAID ON THEIR FIRE TRUCKS AND RESCUE VEHICLES, AND TO GENERATE REVENUE FOR THESE PURPOSES.

The General Assembly of North Carolina enacts:

PART I. WORKERS' COMPENSATION FUND.

Section 1. Article 87 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-87-10. Volunteer Safety Workers' Compensation Fund.

(a) Creation. – The Volunteer Safety Workers' Compensation Fund is created in the Office of the State Treasurer as an expendable trust fund to provide workers' compensation benefits to members of eligible fire departments and eligible rescue/EMS units. An eligible fire department or rescue/EMS unit is a volunteer department or unit

1 that is not part of a unit of local government and is exempt from State income tax under
2 G.S. 105-130.11. Interest and other investment income earned by the Fund accrues to it.

3 (b) Source of Revenue. – In accordance with G.S. 58-87-20, part of the revenue in
4 the Volunteer Safety Workers' Assistance Fund is credited to the Fund. In addition,
5 every eligible department and unit shall pay into the Fund an amount set annually by the
6 State Fire and Rescue Commission to ensure that the Fund will be able to meet its
7 payment obligations under this section. The amount shall be set as a per capita fixed
8 dollar amount for each member of the roster for every department and unit. The payment
9 shall be made to the Commission on or before July 1 of each year. The Commission shall
10 remit the payments it receives to the State Treasurer, who shall credit the payments to the
11 Fund. If the Commission does not receive an annual payment from an eligible
12 department or unit by July 1, then the department or unit that fails to make the payment
13 will not be eligible for workers' compensation coverage from the Fund for the fiscal year
14 that begins that July 1.

15 (c) Use of Revenue. – The Fund will provide workers' compensation benefits to
16 members eligible to receive benefits from the Fund. Chapter 97 of the General Statutes
17 governs the payment of benefits from the Fund. Benefits are payable for compensable
18 injuries or deaths that occur on and after July 1, 1996.

19 (d) Administration. – The State Fire and Rescue Commission, established under
20 G.S. 58-78-1, will administer the Fund. The Commission shall contract with a third-party
21 administrator to administer the Fund. The contracting procedure is not subject to Article
22 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses
23 incurred by the Commission in administering the Fund shall be paid out of the Fund by
24 the State Treasurer. The Commission may adopt rules to implement this section.

25 (e) Report. – On or before February 1 of each year, the Board shall report the
26 operations and financial status of the Fund to the Joint Legislative Commission on
27 Governmental Operations."

28 Sec. 2. The first per member payment that eligible fire departments and
29 rescue/EMS units must make to the Volunteer Safety Workers' Compensation Fund under
30 G.S. 58-87-10(b) is payable on or before July 1, 1996. The State Fire and Rescue
31 Commission shall make its first report to the Joint Legislative Commission on
32 Governmental Operations required under G.S. 58-87-10(e) on or before February 1,
33 1997.

34 Sec. 3. G.S. 58-78-5(a) is amended by adding a new subdivision to read:

35 "(16) To administer the Volunteer Safety Workers' Compensation Fund
36 created under G.S. 58-87-10, to create a Volunteer Safety Workers'
37 Compensation board to assist it in administering this Fund, and to
38 reimburse the members of the Commission's Volunteer Safety
39 Workers' Compensation board in accordance with G.S. 138-5 for
40 travel and subsistence expenses incurred by them."

41 **PART II. INCREASED PENSION BENEFITS.**

42 Sec. 4. G.S. 58-86-35 reads as rewritten:

1 **"§ 58-86-35. Firemen's application for membership in fund; monthly payments by**
2 **members; payments credited to separate accounts of members.**

3 Those firemen who are eligible pursuant to G.S. 58-86-25 may make application for
4 membership to the board. Each fireman upon becoming a member of the fund shall pay
5 the director of the fund the sum of ~~five~~ ten dollars ~~(\$5.00)-(\$10.00)~~ per month. The
6 monthly payments shall be credited to the separate account of the member and shall be
7 kept by the custodian so it is available for payment on withdrawal from membership or
8 retirement."

9 Sec. 5. G.S. 58-86-40 reads as rewritten:

10 **"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly**
11 **payments by members; payments credited to separate accounts of**
12 **members.**

13 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may ~~make application~~
14 apply to the board for membership. ~~All persons who subsequently become rescue squad~~
15 ~~workers may make application for membership.~~ Each eligible rescue squad worker upon
16 becoming a member shall pay the director of the fund the sum of ~~five~~ ten dollars ~~(\$5.00)~~
17 ~~(\$10.00)~~ per month. ~~A rescue squad worker who, on the date of the establishment of the fund,~~
18 ~~has service as a rescue squad worker certified by the Department of State Treasurer, may make a~~
19 ~~lump sum payment of five dollars (\$5.00) per month for each month of service as an eligible~~
20 ~~rescue squad worker as defined by G.S. 58-86-30, on or before December 31, 1983, for as many~~
21 ~~as 240 months together with interest at an annual rate of six percent (6%).~~ The

22 ~~The~~ monthly payments shall be credited to the separate account of the member and
23 shall be kept by the custodian so it is available for payment on withdrawal from
24 membership or retirement."

25 Sec. 6. G.S. 58-86-45(b) reads as rewritten:

26 "(b) ~~Effective April 1, 1987, any~~ An eligible fireman or rescue squad worker who ~~has~~
27 ~~not reached his thirty-fifth birthday who is eligible and who is not yet 35 years old and~~ has not
28 previously elected to become a member may ~~make application through~~ apply to the board
29 of trustees for membership in the fund at any time. ~~The person shall~~ Upon becoming a
30 member, the worker must make a lump sum payment of ~~five~~ ten dollars ~~(\$5.00)-(\$10.00)~~
31 per month retroactively to the time ~~he~~ the worker first became eligible to become a
32 member, plus interest at an annual rate to be set by the board ~~of trustees,~~ for each year of
33 ~~his~~ retroactive payments. Upon making this lump sum payment, the ~~person~~ worker shall
34 be given credit for all prior service in the same manner as if ~~he~~ the worker had ~~made~~
35 ~~application~~ applied for membership at the time ~~he~~ the worker first became upon first becoming
36 eligible.

37 Any
38 A member who has not reached his thirty-fifth birthday is not yet 35 years old, who made
39 application applied for membership subsequent to the time he was first eligible ~~after first~~
40 ~~becoming eligible, and who did not receive credit for prior service may receive credit for~~
41 ~~such~~ the prior service upon making a lump sum payment of ~~five~~ ten dollars ~~(\$5.00)~~
42 ~~(\$10.00) per~~ for each month since the worker first became eligible, retroactively to the time
43 ~~he first became eligible,~~ plus interest at an annual rate to be set by the board ~~of trustees,~~ for
each year of ~~his~~ retroactive payments. Upon making this lump sum payment, the date of

1 membership shall be the same as if ~~he~~ the worker had ~~made application~~ applied for
2 membership ~~at the time he was first~~ upon first becoming eligible."

3 Sec. 7. G.S. 58-86-55 reads as rewritten:

4 "**§ 58-86-55. Monthly pensions upon retirement.**

5 Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad
6 worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30,
7 and who has attained the age of 55 years is entitled to be paid a monthly pension from
8 this fund. The monthly pension shall be in the amount of one hundred ~~ten~~ thirty-five
9 dollars ~~(\$110.00)~~ (\$135.00) per month. Any retired fireman receiving a pension of one
10 hundred ten dollars (\$110.00) per month shall, effective July 1, ~~1994,~~ 1995, receive a
11 pension of one hundred ~~ten~~ thirty-five dollars ~~(\$110.00)~~ (\$135.00) per month.

12 Members shall pay ~~five-ten~~ dollars ~~(\$5.00)~~ (\$10.00) per month as required by G.S. 58-
13 86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue
14 squad member' shall receive a pension prior to July 1, 1983. No ~~person-member~~ shall be
15 entitled to a pension hereunder until ~~his~~ the member's official duties as a fireman or
16 rescue squad worker for which ~~he~~ the member is paid compensation shall have been
17 terminated and ~~he~~ the member shall have retired as such according to standards or rules
18 fixed by the board of trustees.

19 ~~Any A~~ member who is totally and permanently disabled while in the discharge of ~~his~~
20 the member's official duties as a result of bodily injuries sustained or as a result of
21 extreme exercise or extreme activity experienced in the course and scope of ~~his~~ those
22 official duties and who leaves the fire or rescue squad service because of this disability
23 shall be entitled to be paid from the fund a monthly benefit in an amount of one hundred
24 ~~ten~~ thirty-five dollars ~~(\$110.00)~~ (\$135.00) per month beginning the first month after ~~his~~
25 the member's fifty-fifth birthday. All applications for disability are subject to the approval
26 of the board who may appoint physicians to examine and evaluate the disabled member
27 prior to approval of ~~his~~ the application, and annually thereafter. Any disabled member
28 shall not be required to make the monthly payment of ~~five-ten~~ dollars ~~(\$5.00)~~ (\$10.00) as
29 required by G.S. 58-86-35 and G.S. 58-86-40.

30 ~~Any A~~ member who is totally and permanently disabled for any cause, other than line
31 of duty, who leaves the fire or rescue squad service because of this disability and who has
32 at least 10 years of service with the pension fund, may be permitted to continue making a
33 monthly contribution of ~~five-ten~~ dollars ~~(\$5.00)~~ (\$10.00) to the fund until ~~he~~ the member
34 has ~~paid into the fund the sum of one thousand two hundred dollars (\$1,200).~~ made
35 contributions for a total of 240 months. The member shall upon attaining the age of 55
36 years be entitled to receive a pension as provided by this section. All applications for
37 disability are subject to the approval of the board who may appoint physicians to examine
38 and evaluate the disabled member prior to approval of ~~his~~ the application and annually
39 thereafter.

40 ~~Any A~~ member who, because his residence is annexed by a city under Part 2 or Part 3
41 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed
42 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of
43 the General Statutes, and because of such annexation is unable to perform as a fireman of

1 any status, and if the member has at least 10 years of service with the pension fund, may
2 be permitted to continue making a monthly contribution of ~~five-ten~~ dollars (\$5.00)
3 (\$10.00) to the fund until ~~he-the member has paid into the fund the sum of one thousand two~~
4 ~~hundred dollars (\$1,200)-made contributions for a total of 240 months.~~ The member upon
5 attaining the age of 55 years and completion of such contributions shall be entitled to
6 receive a pension as provided by this section. Any application to make monthly
7 contributions under this section shall be subject to a finding of eligibility by the Board of
8 Trustees upon application of the member.

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

12 Sec. 8. G.S. 58-86-30 reads as rewritten:

13 **"§ 58-86-30. 'Eligible rescue squad worker' defined; determination and certification**
14 **of eligibility.**

15 'Eligible rescue squad worker' means ~~any-a person who is a member of a rescue or~~
16 ~~emergency medical services squad who-that~~ is eligible for membership in the North
17 Carolina Association of Rescue and Emergency Medical Services, Squads, Inc., and who
18 has attended a minimum of 36 hours of training and meetings in the last calendar year.
19 Each rescue ~~or emergency medical services squad worker~~-eligible for membership in the
20 North Carolina Association of Rescue and Emergency Medical Services, Squads, Inc.,
21 must file a roster certified by the secretary of the association of those rescue ~~or~~
22 ~~emergency medical services squad workers meeting the association-requirements of this~~
23 ~~section~~ with the State Treasurer by January 1 of each calendar year.

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

27 Sec. 9. The changes made to G.S. 58-86-45 and G.S. 58-86-55 by this Part do
28 not affect the credit received for service performed before July 1, 1995. The increase in
29 monthly pension contributions from five dollars (\$5.00) to ten dollars (\$10.00) in G.S.
30 58-86-55 does not affect the amount of monthly contributions made prior to July 1, 1995.

31 **PART III. REIMBURSEMENT OF HIGHWAY USE TAX/GRANT PROGRAM.**

32 Sec. 10. The caption for Article 87 of Chapter 58 of the General Statutes reads
33 as rewritten:

34 **"ARTICLE 87.**

35 ~~"Volunteer Fire Department and Rescue/EMS Funds- Safety Workers Assistance."~~

36 Sec. 11. G.S. 58-87-1(b) reads as rewritten:

37 "(b) A fire department is eligible for a grant under this section ~~if-~~if it meets all of
38 the following conditions:

- 39 (1) It serves a response area of 6,000 or less in ~~population;-population.~~
- 40 (2) It ~~is all-volunteer; and has no more than two paid members and~~
41 otherwise consists of volunteer members.
- 42 (3) It has been certified by the Department of Insurance.

1 In making the population determination under subdivision (1), the Department shall use
2 the ~~latest decennial U.S. Census population data~~ most recent annual population estimates
3 certified by the State Planning Officer."

4 Sec. 12. G.S. 58-87-5(b) reads as rewritten:

5 "(b) A rescue or rescue/EMS unit is eligible for a grant under this section ~~if~~ if it
6 meets all of the following conditions:

7 (1) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1066, s.
8 33(a), effective July 15, 1990.

9 (2) ~~It is all volunteer, except that the rescue or rescue/EMS unit may~~
10 ~~have paid members, not to exceed two positions, either full-time or~~
11 ~~part-time; and has no more than two paid members and otherwise~~
12 consists of volunteer members.

13 (3) It has been recognized by the Department as an organization that
14 provides rescue or rescue and emergency medical ~~services; and~~
15 services.

16 (4) It satisfies the eligibility criteria established by the Department under
17 subsection (a) of this section."

18 Sec. 13. Chapter 58 of the General Statutes is amended by adding a new
19 section to read:

20 "**§ 58-87-15. Reimbursement of highway use tax.**

21 The State Treasurer shall reimburse an eligible volunteer fire department or an
22 eligible volunteer rescue squad for the amount of highway use tax paid by it for an
23 emergency services vehicle used by it in the performance of its duties from the Volunteer
24 Safety Workers' Assistance Fund.

25 A request for a reimbursement must be made in writing to the Commissioner of
26 Insurance within six months after the vehicle is purchased. The request must include any
27 information and documentation required by the Commissioner. If the request is approved
28 by the Commissioner, it shall be sent to the State Treasurer for reimbursement.

29 An 'eligible volunteer fire department' or an 'eligible volunteer rescue squad' is one
30 that is not part of a unit of local government and is exempt from State income tax under
31 G.S. 105-130.11. A 'rescue squad' is an organization that provides rescue services,
32 emergency medical services, or both."

33 **PART IV. CAP ON GROSS PREMIUM TAX CREDITS.**

34 Sec. 14. G.S. 105-228.5A reads as rewritten:

35 "**§ 105-228.5A. Credit against gross premium tax for assessments paid to the**
36 **Insurance Guaranty Association and the Life and Health Insurance**
37 **Guaranty Association.**

38 (a) Definitions. – The following definitions apply in this section:

39 (1) Assessment. – An assessment as described in G.S. 58-48-35 or an
40 assessment as described in G.S. 58-62-41.

41 (2) Association. – The North Carolina Insurance Guaranty Association
42 created under G.S. 58-48-25 or the North Carolina Life and Health
43 Insurance Guaranty Association created under G.S. 58-62-26.

1 (3) Commissioner. – Commissioner of Insurance.

2 (4) Member insurer. – A member insurer as defined in G.S. 58-48-20 or
3 a member insurer as defined in G.S. 58-62-16.

4 (b) Tax Credit. – A member insurer who pays an assessment is allowed as a credit
5 against the tax imposed under G.S. 105-228.5 an amount equal to ~~twenty-ten~~ ten percent
6 ~~(20%)~~ (10%) of the amount of the assessment in each of the ~~five~~ 10 taxable years
7 following the year in which the assessment was paid. In the event a member insurer
8 ceases doing business, all assessments for which it has not taken a credit under this
9 section may be credited against its premium tax liability for the year in which it ceases
10 doing business. The amount of the credit allowed by this section may not exceed the
11 member insurer's premium tax liability for the taxable year.

12 (b1) Pre-1995 Credits Extended. – An insurer that paid an assessment in calendar
13 year 1991, 1992, 1993, or 1994 shall determine the amount of the credit that remains to
14 be taken in taxable years beginning on or after January 1, 1995. The insurer can take ten
15 percent (10%) of this amount as a credit against the tax imposed under G.S. 105-228.5 in
16 each of the 10 taxable years beginning on or after January 1, 1995. This schedule for
17 taking credits for assessments paid in calendar year 1991, 1992, 1993, or 1994 supersedes
18 the twenty percent (20%) schedule used for taxable years prior to January 1, 1995.

19 (c) Refunds. – Any sums that are acquired by refund, under either G.S. 58-48-35
20 or G.S. 58-62-41, from the Association by member insurers, and that have previously
21 been offset against premium taxes as provided in subsection (b) of this section, shall be
22 paid by the member insurers to this State in the manner required by the Commissioner.
23 The Association shall notify the Commissioner that the refunds have been made.

24 (d) Cap on Credits. – The total amount of all tax credits allowed to member
25 insurers under this section for a calendar year may not exceed the greater of ten million
26 dollars (\$10,000,000) or the total amount of credits claimed in that taxable year for
27 assessments paid in calendar years 1991, 1992, 1993, and 1994. The cap applies to all
28 credits taken in a calendar year, regardless of the year the assessments to which they
29 apply were paid.

30 The Secretary shall calculate the total amount of tax credits claimed on the annual
31 gross premiums tax report. If the total amount of tax credits claimed for assessments
32 during a calendar year exceeds the maximum amount, the Secretary shall allow a portion
33 of the credits claimed by allocating the credits among the member insurers claiming the
34 credits in proportion to the size of the credit claimed by each member insurer. The
35 Secretary must notify each member insurer whose tax liability is increased because the
36 insurer can take only a portion of the credit the insurer claimed under this section of the
37 amount of additional gross premium tax owed by the following April 15. The member
38 insurer must remit the balance of the tax owed to the Secretary by the following June 15.
39 If the member insurer is required to make quarterly installments of premium tax liability,
40 then the member insurer must remit the balance of the tax owed with the insurer's next
41 quarterly payment."

42 **PART V. VOLUNTEER SAFETY WORKERS' ASSISTANCE FUND.**

43 Sec. 15. G.S. 105-228.5 is amended by adding a new section to read:

1 "(h) Allocation of Tax Proceeds. – A portion of the revenue collected under this
2 section each year shall be allocated to the Volunteer Safety Workers' Assistance Fund
3 established under G.S. 58-87-20. The Secretary shall calculate the amount to be allocated
4 to the Fund and shall certify this amount to the State Treasurer. The State Treasurer shall
5 credit this amount to the Fund by June 15 of each year.

6 The amount of gross premium tax revenue to be credited to the Volunteer Safety
7 Workers' Assistance Fund is the difference between the following:

8 (1) The amount of credits insurers would be allowed to take under this
9 section for the taxable year if the insurer could take as a credit
10 twenty percent (20%) of the amount of an assessment in each of the
11 five years following the year it is paid.

12 (2) The amount of credits allowed for the taxable year."

13 Sec. 16. The State Treasurer must make the first allocation of gross premium
14 tax to the Volunteer Safety Workers' Assistance Fund under G.S. 105-228.5(h), as
15 enacted by this act, on or before June 15, 1996.

16 Sec. 17. Chapter 58 of the General Statutes is amended by adding a new
17 section to read:

18 **"§ 58-87-20. Volunteer Safety Workers' Assistance Fund.**

19 (a) Creation. – The Volunteer Safety Workers' Assistance Fund is created in the
20 Office of the State Treasurer as a nonreverting special revenue fund to provide assistance
21 to eligible fire departments and eligible rescue/EMS units. Interest and other investment
22 income earned by the Fund accrues to it. In accordance with G.S. 105-228.5, part of the
23 revenue from the gross premium tax is credited to the Fund. The State Treasurer shall
24 administer the Fund.

25 (b) Use of Revenue. – The revenue in the Fund shall be allocated as follows:

26 (1) The sum of four million four hundred thousand dollars (\$4,400,000)
27 shall be credited to the Volunteer Safety Workers' Compensation
28 Fund established under G.S. 58-87-10. The Treasurer shall credit
29 this amount to the Fund by October 1 of each year.

30 (2) The sum of four million four hundred thousand dollars (\$4,400,000)
31 shall be credited to the North Carolina Firemen's and Rescue Squad
32 Workers' Pension Fund established under G.S. 58-86-20. The
33 Treasurer shall credit this amount to the Fund by October 1 of each
34 year.

35 (3) Amounts required under G.S. 58-87-15 to reimburse volunteer fire
36 departments and volunteer rescue squads for highway use tax.

37 (4) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
38 credited to the Volunteer Fire Department Fund established under
39 G.S. 58-87-1. The Treasurer shall credit this amount to the Fund by
40 July 1 of each year."

41 Sec. 18. (a) The Volunteer Safety Workers' Assistance Fund established under
42 G.S. 58-87-20, as enacted by this act, may borrow funds from the General Fund to meet
43 obligations that may arise prior to the allocation of gross premium tax revenue to the

1 Fund under G.S. 105-228.5(h), as enacted by this act. The full proceeds borrowed from
2 the General Fund must be repaid to it by June 30 of the fiscal year in which the
3 borrowing commences. The terms of the loan shall be determined by the Office of State
4 Budget and Management.

5 (b) This section is effective upon ratification and expires July 1, 1996.

6 Sec. 19. Sections 4 through 9 become effective July 1, 1995. Section 13
7 becomes effective October 1, 1995, and applies to vehicles purchased on or after that
8 date. Section 14 becomes effective for taxable years beginning on or after January 1,
9 1995, and applies to all credits taken in that taxable year, regardless of the year the
10 assessments to which they apply were paid. The remainder of this act becomes effective
11 upon ratification.