

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 273  
Pensions and Retirement and Aging Committee Substitute Adopted 5/10/21

Short Title: Charlotte Firefighters' Retirement System Act.

(Public)

Sponsors:

Referred to:

March 15, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE LAW ESTABLISHING THE CHARLOTTE FIREFIGHTERS'  
3 RETIREMENT SYSTEM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** S.L. 1947-926, as amended by 1949-734, 1951-387, 1953-932,  
6 1955-859, 1959-723, 1965-575, 1967-181, 1969-132, 1971-860, 1973-267, 1979-381, 1983-506,  
7 1983-1054, 1985-185, 1987-506, 1987-1033, 1989-248, 1991-830, 1993-640, 1995-171,  
8 1999-100, 2001-22, 2002-43, 2006-117, 2010-7, 2015-42, and 2017-71, reads as rewritten:

9 **"TITLE I. PREFACE.**

10 ...

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

13 ...

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

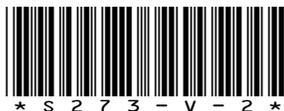
21 ...

22 (5a) 'Basic Benefit' means the benefit specified in subsection (a) of Section 17.

23 ...

24 (11) 'Final Average Salary' means, effective with respect to Plan Years beginning  
25 on and after July 1, 2001, the higher amount of (i) the monthly average  
26 Compensation received during the two highest consecutive Plan Years of the  
27 Member's last five years of Membership Service or (ii) the monthly average  
28 Compensation received during the 104 weeks preceding the end of the  
29 Member's Membership Service. If a Member has less than two years of  
30 Membership Service, his Final Average Salary shall mean the monthly  
31 average Compensation for his total Membership Service. For the purpose of  
32 calculating a Member's Final Average Salary, ~~(i) payments~~ the following  
33 apply:

34 a. Payments for unused sick and vacation days shall be included as  
35 Compensation to the extent that the vacation and sick days for which  
36 payments are made could have accrued during two Plan Years of the



1 Member's last five years of Membership ~~Service, and (ii) payments~~  
2 Service.

- 3 b. Payments for longevity shall be included as Compensation to the  
4 extent such payments were made during two Plan Years of the  
5 Member's last five years of Membership Service.

6 ...

7 **"TITLE II. MEMBERSHIP SERVICE CREDIT.**

8 ...

9 **"Sec. 4. Periods of Workers' Compensation & Accident and Sickness, Family Medical**  
10 **Leave Act, and Long-Term Disability Benefits.** Membership Service Credit shall be credited  
11 to a Member for any periods of workers' compensation, accident and sickness, Family Medical  
12 Leave Act, or long-term disability benefits for which said Member contributes to the Charlotte  
13 Firefighters' Retirement System an amount equal to the Compensation the Member would have  
14 earned multiplied by twelve and sixty-five hundredths percent ~~(12.65%)~~ (12.65%), except that  
15 for any new periods of leave described in this section that begin after July 1, 2021, such other  
16 percentage rate as may be determined from time to time by the City upon recommendation of the  
17 Board of Trustees, in accordance with Section 39 or any funding policies adopted by the Board  
18 of Trustees. Such contributions must be made within a 12-calendar month period from and after  
19 the date the Member returns to employment with the Charlotte Fire Department and prior to the  
20 Member's termination of membership or retirement.

21 ...

22 **"Sec. 6. Return from Active Military Duty.** Membership Service Credit shall be credited  
23 to any Member who entered the Armed Forces of the United States of America during World  
24 War I, World War II, the Korean War, any period of national emergency conditions, or entered  
25 the Armed Forces at any time through the operation of the compulsory military service law of  
26 the United States of America, upon the return to membership employment with the Charlotte Fire  
27 Department. Such Membership Service Credit shall include the period of active military service  
28 and any period after discharge or release from active duty from the Armed Forces for which his  
29 reemployment rights are guaranteed by law unless otherwise specified in this act.  
30 Notwithstanding any other provision of this section, effective December 12, 1994, this act shall  
31 at all times be construed and enforced according to the requirements of the Uniformed Services  
32 Employment and Reemployment Rights Act of ~~1994~~ 1994 (USERRA), as amended.

33 **"Sec. 7. Purchase of Membership Service Credit.**

34 (a) **Military Service.** – Effective July 1, 1999, Membership Service Credit for prior active  
35 military duty may be purchased upon the completion of five years of Membership Service Credit  
36 by any Member who served on active duty in the Armed Forces of the United States of America  
37 prior to his employment with the Charlotte Fire Department. Such Membership Service Credit  
38 shall be purchased by the Member before termination of membership or retirement. The amount  
39 of Membership Service Credit that may be purchased by a Member will be equal to the actual  
40 active military duty by the Member not to exceed five years and shall be credited upon the  
41 payment of the required ~~contributions as determined by the Administrator, contributions,~~  
42 provided that the Membership Service to be so credited shall not be credited in any other  
43 retirement system, except the national guard or any reserve component of the Armed Forces of  
44 the United States. The required contributions shall be an amount equal to the annualized  
45 Compensation rate the Member earned when he first entered membership in the Retirement  
46 System, multiplied by the sum of the Member and the City of Charlotte contribution rates in  
47 effect at the time when he first entered membership in the Retirement System, increased by five  
48 percent (5%) compounded per annum from the date of membership to the date of the payment of  
49 the required contributions and multiplied by the number of years and days of Membership Service  
50 to be credited. For any Member beginning membership on or after July 1, 2021, the required  
51 contributions shall be the full actuarial cost as determined by the System's actuary. Membership

1 Service Credit purchased pursuant to this section cannot be used to meet the minimum service  
2 requirements for a nonduty disability retirement benefit or an early service retirement benefit,  
3 but may be used to meet the minimum service requirements for a service retirement benefit and  
4 to compute the amount of any retirement benefit.

5 (b) Local, State, and Federal Government Service. – Membership Service Credit for prior  
6 public employment may be purchased upon completion of five years of Membership Service  
7 Credit by any Member who was employed by any state, governmental subdivision of any state,  
8 or the federal government prior to his current employment with the Charlotte Fire Department.  
9 Such Membership Service Credit shall be purchased by the Member before termination of  
10 membership or retirement. A Member may purchase one year of Membership Service Credit for  
11 every two years of prior government service. The maximum amount of Membership Service  
12 Credit that may be purchased is five years. The purchased Membership Service Credit shall be  
13 credited upon the payment of the required contributions, provided that the Membership Service  
14 to be so credited shall not be credited in any other retirement system. The required contributions  
15 shall be the full actuarial cost as determined by the System's actuary. Membership Service Credit  
16 purchased pursuant to this section cannot be used to meet the minimum service requirements for  
17 a nonduty disability retirement benefit or an early service retirement benefit, but may be used to  
18 meet the minimum service requirements for a service retirement benefit and to compute the  
19 amount of any retirement benefit.

20 (c) Withdrawn Service. – Any Member who withdrew his contributions in accordance  
21 with the provisions of this Act and who subsequently returns to service, may upon completion of  
22 five years of Membership Service Credit, purchase the withdrawn service. Such Membership  
23 Service Credit shall be purchased by the Member before termination of membership or  
24 retirement. The maximum amount of Membership Service Credit that may be purchased by a  
25 Member is equal to the prior years of service with the Charlotte Fire Department and shall be  
26 credited upon the payment of the required contributions, provided that the Membership Service  
27 Credit to be so credited shall not be credited in any other retirement system. The required  
28 contributions shall be the full actuarial cost as determined by the System's actuary. Membership  
29 Service Credit purchased pursuant to this section cannot be used to meet the minimum service  
30 requirements for a nonduty disability retirement benefit or an early service retirement, but may  
31 be used to meet the minimum service requirements for a service retirement benefit and to  
32 compute the amount of any retirement benefit.

33 ...

### 34 "TITLE III. TERMINATION OF MEMBERSHIP.

35 ...

#### 36 "Sec. 12. Failure to Return From Active Military Duty.

37 (a) Generally. Should any Member of this Retirement System who entered the Armed  
38 Forces of the United States of America pursuant to the provisions of Section 6 of this act fail to  
39 return to employment with the Charlotte Fire Department within the period for which his  
40 reemployment rights are guaranteed by law, said Member shall thereupon cease membership and  
41 shall be entitled to a deferred benefit or reimbursement of his contributions in the same manner  
42 and in all respects as provided for in Section 10 or 11 of this act, whichever is applicable.

43 Such former Member shall not receive Membership Service Credit for the period of active  
44 military duty or any period after discharge or release from active duty from the Armed Forces  
45 for which his reemployment rights had been guaranteed by law.

46 (b) Death or Disability. In the case of a death or disability occurring on or after January  
47 1, 2007, if a Member dies while performing qualified military service (as defined in section  
48 414(u) of the Code), the survivors of the Member are entitled to any additional benefits (other  
49 than benefit accruals relating to the period of qualified military service) provided under the  
50 System as if the Member had resumed and then terminated employment on account of death.

1 (c) ~~Benefit Accrual. For benefit accrual~~ Accrued Benefit. For Accrued Benefit purposes,  
2 the System treats an individual who, on or after January 1, 2007, dies or becomes disabled (as  
3 defined under the terms of the System) while performing qualified military service with respect  
4 to the Charlotte Fire Department as if the individual had resumed employment in accordance  
5 with the individual's reemployment rights under USERRA, on the day preceding death or  
6 disability (as the case may be) and terminated employment on the actual date of death or  
7 disability. The System will determine the amount of Member contributions of an individual  
8 treated as reemployed under this section for purposes of applying section 414(u)(8)(C) of the  
9 Code on the basis of the individual's average actual employee contributions for the lesser of (i)  
10 the 12-month period of service with the Sponsor immediately prior to qualified military service  
11 or (ii) if service with the Sponsor is less than such 12-month period, the actual length of  
12 continuous service with the Sponsor.

13 (d) Differential Wage Payments. For years beginning after December 31, 2008, (i) an  
14 individual receiving a differential wage payment, as defined by section 3401(h)(2) of the Code,  
15 shall be treated as a Member of the Sponsor making the payment; (ii) the differential wage  
16 payment shall be treated as compensation; and (iii) the System shall not be treated as failing to  
17 meet the requirements of any provision described in section 414(u)(1)(C) of the Code by reason  
18 of any contribution or benefit that is based on the differential wage payment.

19 ...

#### 20 "TITLE IV. BENEFITS.

21 ...

22 "Sec. 17. Basic Benefit. (a) Effective July 1, 1998, upon retirement pursuant to the provisions  
23 of Section 15 of this act, a Member shall receive a monthly benefit equal to two and six-tenths  
24 percent (2.6%) of his Final Average Salary multiplied by his Membership Service Credit, not to  
25 exceed the ~~Final Average Salary~~ limits imposed by section 415 of the Internal Revenue Code, as  
26 amended, but not less than nine hundred two dollars and seventy-five cents (\$902.75). The  
27 benefit payable pursuant to this subsection shall be referred to as the ~~basic benefit~~ Basic Benefit.

28 (b) Prior to his retirement, but not thereafter, a Member may elect to receive an Actuarial  
29 Equivalent, computed as of the effective date of his retirement, of his ~~basic benefit~~ Basic Benefit  
30 from subsection (a) of this section in a reduced monthly amount payable throughout his life, and  
31 nominate a Beneficiary in accordance with the provisions of option 1, 2, 3, 4, 5 or 6 as set forth  
32 below. Actuarial Equivalent for all Members retiring prior to July 1, 1987, shall be computed in  
33 accordance with the Group Annuity Table for 1951 with interest at four percent (4%). Actuarial  
34 Equivalent for all Members retiring after June 30, 1987, shall be computed in accordance with  
35 the Unisex Mortality Table for 1984 set forward one year in age with interest at six percent (6%).  
36 If a Member does not have an option election in force at the time of his retirement, his monthly  
37 benefit shall be paid as the ~~basic benefit~~ Basic Benefit.

38 (c) Option 1. Benefit for 10 Years Certain and Life Thereafter. A Retiree shall receive a  
39 reduced ~~basic benefit~~ Basic Benefit payable monthly throughout his life with the provision that  
40 if he dies before he has received 120 monthly payments, the payments will continue for the  
41 remainder of the 120-month period to such Beneficiary, if living, as the Retiree shall have  
42 nominated by written designation duly executed and filed with the Board of Trustees.

43 (d) Option 2. 100% Joint and Survivor Benefit. A Retiree shall receive a reduced ~~basic~~  
44 ~~benefit~~ Basic Benefit payable monthly throughout his life and upon his death his reduced monthly  
45 benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have  
46 nominated by written designation duly executed and filed with the Board of Trustees prior to  
47 retirement but not thereafter.

48 (e) Option 3. 75% Joint and Survivor Benefit. A Retiree shall receive a reduced ~~basic~~  
49 ~~benefit~~ Basic Benefit payable monthly throughout his life and upon his death seventy-five percent  
50 (75%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if

1 living, as the Retiree shall have nominated by written designation duly executed and filed with  
2 the Board of Trustees prior to retirement but not thereafter.

3 (f) Option 4. 66 2/3% Joint and Survivor Benefit. A Retiree shall receive a reduced ~~basic~~  
4 ~~benefit~~ Basic Benefit payable monthly throughout his life and upon his death sixty-six and  
5 two-thirds percent (66 2/3%) of his reduced monthly benefit shall continue throughout the life of  
6 such Beneficiary, if living, as the Retiree shall have nominated by written designation duly  
7 executed and filed with the Board of Trustees prior to retirement but not thereafter.

8 (g) Option 5. 50% Joint and Survivor Benefit. A Retiree shall receive a reduced ~~basic~~  
9 ~~benefit~~ Basic Benefit payable monthly throughout his life and upon his death fifty percent (50%)  
10 of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living,  
11 as the Retiree shall have nominated by written designation duly executed and filed with the Board  
12 of Trustees prior to retirement but not thereafter.

13 (h) Option 6. A Retiree may elect any of Options 2 through 5 with the added provision  
14 that in the event the Designated Beneficiary predeceases the Retiree, the monthly benefit payable  
15 to the Retiree after the Beneficiary's death shall be equal to the ~~basic benefit~~ Basic Benefit. Such  
16 election will result in a benefit that is further reduced than the corresponding benefit payable  
17 under Options 2 through 5 if this Option 6 has not been elected. The intent of this additional  
18 reduction is to support the additional cost of this election.

19 (i) In the event that a Retiree who named his spouse as Beneficiary in accordance with  
20 the provisions of Options 1 through 6 and shall subsequently become divorced from the named  
21 Beneficiary, the Retiree may then elect a life annuity which shall be the Actuarial Equivalent of  
22 the value of all future benefit payments under the option then in effect upon written request to  
23 the Board of Trustees provided such request is not inconsistent with the terms of the divorce  
24 decree. It is the Retiree's responsibility to provide all pertinent documentation.

25 ...

26 **"Sec. 19. Disability Retirement in the Line of Duty.**

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

30 (b) An 'Application for Disability Retirement in the Line of Duty' shall be administered  
31 pursuant to the Disability Regulations adopted by the Board of Trustees from time to time and  
32 approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner.  
33 The Administrator shall request the Board of Trustees to conduct a hearing on the Application  
34 for Disability Retirement in the Line of Duty pursuant to the provisions of the Disability  
35 Regulations. The Member or any person filing on the Member's behalf or the Administrator may  
36 appeal from any order of the Board to the Superior Court of Mecklenburg County, within 10 days  
37 of the order. The appeal to the Superior Court shall be upon the record of the proceeding before  
38 the Board at the hearing.

39 (c) Effective July 1, 1999, upon retirement pursuant to the provisions of this section, a  
40 Member shall receive a monthly benefit equal to the greater of seventy-eight percent (78%) of  
41 his Final Average Salary or two and six-tenths percent (2.6%) of his Final Average Salary  
42 multiplied by his Membership Service Credit, not to exceed the ~~Final Average Salary~~ limits  
43 imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred  
44 two dollars and seventy-five cents (\$902.75) per month. Effective July 1, 1988, prior to his  
45 retirement pursuant to the provisions of this Section, but not thereafter, a Member may elect to  
46 receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his  
47 monthly ~~amount benefit~~ payable throughout his life, and nominate a Beneficiary in accordance  
48 with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth  
49 in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to  
50 this Section shall be computed in accordance with the Unisex Mortality Table for 1984 set  
51 forward one year in age, with interest at six percent (6%). Benefits payable under this Section

1 shall be effective on the date of approval by the Board of Trustees or upon exhaustion of workers'  
2 compensation benefits, whichever is later. Also, disability retirement benefits payable under this  
3 Section may be adjusted ~~by the disability retirement regulations in accordance with the Disability~~  
4 Regulations adopted pursuant to the requirements ~~contained in~~ of subsection (b) of this Section.  
5 A Retiree receiving disability retirement benefits shall revert to a service retirement as specified  
6 in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued  
7 Benefit as determined as of the last date of active employment with the Charlotte Fire Department  
8 at such time as the Retiree's attained age and Membership Service Credit meet the requirements  
9 for a service retirement.

10 **"Sec. 20. Disability Retirement not in the Line of Duty.**

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

15 (b) An 'Application for Disability Retirement not in the Line of Duty' shall be  
16 administered pursuant to ~~rules and regulations~~ Disability Regulations adopted by the Board of  
17 Trustees from time to time and approved by the City of Charlotte and administered in a uniform  
18 and nondiscriminatory manner. The Administrator shall request the Board of Trustees to conduct  
19 a hearing on the Application for Disability Retirement not in the Line of Duty pursuant to the  
20 provisions of the Disability Regulations. The Member or any person filing on the Member's  
21 behalf or the Administrator may appeal from any order of the Board to the Superior Court of  
22 Mecklenburg County by giving notice of appeal, in writing, to the Superior Court, within 10 days  
23 of the order. The appeal to the Superior Court shall be upon the record of the proceeding before  
24 the Board at the hearing.

25 (c) Effective July 1, 1999, upon retirement pursuant to the provisions of this section, a  
26 Member shall receive a monthly benefit equal to thirty-nine percent (39%) of his Final Average  
27 Salary, plus one and ninety-five hundredths percent (1.95%) of his Final Average Salary  
28 multiplied by the Membership Service Credit in excess of 10 years, not to exceed the ~~Final~~  
29 ~~Average Salary~~ limits imposed by section 415 of the Internal Revenue Code, as amended, but  
30 not less than nine hundred two dollars and seventy-five cents (\$902.75) per month. Effective July  
31 1, 1988, prior to his retirement pursuant to the provisions of this section, but not thereafter, a  
32 Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his  
33 retirement, of his monthly ~~amount benefit~~ payable throughout his life, and nominate a  
34 Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and  
35 Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all  
36 Members retiring pursuant to this section shall be computed in accordance with the Unisex  
37 Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits  
38 payable under this section shall be effective on the date of approval by the Board of Trustees.  
39 Also, disability retirement benefits payable under this Section may be adjusted ~~by the disability~~  
40 ~~retirement regulations in accordance with the Disability Regulations~~ adopted pursuant to the  
41 requirements ~~contained in~~ of subsection (b) of this Section. A Retiree receiving disability  
42 retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive  
43 the greater of such disability retirement benefits or his Accrued Benefit as determined as of the  
44 last date of active employment with the Charlotte Fire Department at such time as the Retiree's  
45 attained age and Membership Service Credit meet the requirements for a service retirement.

46 **"Sec. 21. Death Benefits.**

47 (a) In the event of the death of any Member of the System prior to his effective date of  
48 retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act, his Designated  
49 Beneficiary(s) on file with the Retirement System, or his personal representative in the absence  
50 of any Designated Beneficiary, shall be entitled to reimbursement of the Total Contributions by  
51 him or on his behalf and contributions by the City of Charlotte to the System on his behalf; plus,

1 interest compounded annually at the rate of four percent (4%) per year on the contribution  
2 balance at the beginning of each Plan Year in which the Participant contributed or in which  
3 contributions were made on his behalf. The Board of Trustees has the right to set a different  
4 interest rate from time to time. Interest shall not apply to death benefits occurring before July 1,  
5 1986. Such Beneficiary(s) or personal representative must complete and file the form  
6 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement. As  
7 an option, a Beneficiary may elect to receive an annuity equal to and in lieu of a lump sum  
8 distribution by so designating on the above form. Effective July 1, 1989, as an option, a surviving  
9 spouse of a deceased Member who was eligible for a service or early retirement benefit on the  
10 date preceding death may elect to receive an Actuarial Equivalent computed as of the date  
11 preceding death in the same manner as if the deceased member had retired and elected a reduced  
12 monthly amount payable throughout his life, and nominated the surviving spouse as his  
13 beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66  
14 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial  
15 Equivalent for all benefits payable pursuant to this section shall be computed in accordance with  
16 the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%).

17 (b) In the event of the death of a Retiree of this System receiving ~~basic benefit~~ Basic  
18 Benefit payments, or the last to die of the Retiree and Beneficiary receiving an optional form of  
19 benefit payment in accordance with Section 17, and before the Retiree (or Retiree and  
20 Beneficiary, in the case of an optional form of benefit) has received monthly benefit payments  
21 equal to the present value on the effective date of retirement of the Total Contributions to the  
22 System by the Retiree and by the City of Charlotte on behalf of the Retiree, plus interest  
23 compounded annually at the rate applicable to subsection (a) of this section on the contribution  
24 balance at the beginning of each Plan Year in which the Retiree contributed or in which  
25 contributions were made on behalf of the Retiree, the Designated Beneficiary(s), if any, or estate  
26 of the Retiree (or estate of the Beneficiary, in the case of an optional form of benefit) shall be  
27 entitled to an amount equal to the difference between such contributions, plus interest, and the  
28 sum of the monthly benefit payments received by the Retiree (or Retiree and Beneficiary, in the  
29 case of an optional form of benefit). However, interest shall not apply to death benefits occurring  
30 before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the  
31 form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement.

32 ...

33 **"Sec. 23. Post-Retirement Adjustments.**

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

38 (b) Effective July 1, 2001, the Board of Trustees shall make an annual bonus payment in  
39 the month of January upon receipt of a fiscal note prepared by the actuary demonstrating that the  
40 Retirement System could support such payment in an actuarially sound manner. Such fiscal note,  
41 at a minimum, shall evaluate the effect that granting the bonus payment will have on the  
42 amortization period, the level of unfunded accrued liabilities, and the annual required  
43 contributions. The total amount to be distributed shall be recommended by the actuary but in all  
44 events shall not exceed the aggregate monthly benefits of the Retirees eligible for the bonus. A  
45 Retiree who has been retired for at least one year as of December 31, preceding distribution of  
46 the bonus, shall receive a bonus that is determined by the Administrator as proportional of the  
47 Retiree's monthly benefit to the aggregate monthly benefits of all Retirees eligible for the bonus.

48 (b1) Effective July 1, 1998, a Member who retired prior to July 1, 1989, shall receive an  
49 adjustment to the annual benefit equivalent to eight and thirty-three one hundredths percent  
50 (8.33%), which shall result in a monthly benefit of not less than nine hundred two dollars and  
51 seventy-five cents (\$902.75) per month. Effective July 1, 1998, a Member who retired pursuant

1 to a disability retirement after July 1, 1989, shall receive an adjustment to the annual benefit  
2 equivalent to eight and thirty-three one hundredths percent (8.33%) through July 1, 1999, which  
3 shall result in a monthly benefit of not less than nine hundred two dollars and seventy-five cents  
4 (\$902.75) per month.

5 (b2) The City Council may, within its discretion and upon the recommendation of the  
6 Board of Trustees, appropriate funds necessary to provide a cost-of-living increase to the Retirees  
7 of the System.

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

11 ...

## 12 "TITLE V. METHOD OF FINANCING.

13 "Sec. 24. **Member Contributions.** Each Member shall contribute to the Charlotte  
14 Firefighters' Retirement System and the City of Charlotte shall cause to be deducted from each  
15 and every payroll of such Member, an amount equal to the Member's Compensation multiplied  
16 by twelve and sixty-five hundredths percent ~~(12.65%)~~ (12.65%), or such other percentage rate as  
17 may be determined from time to time by the City upon recommendation of the Board of Trustees  
18 in accordance with Section 39 or any funding policies adopted by the Board.

19 Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the City of  
20 Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue  
21 Code of 1986, as amended from time to time, may elect to pick up and pay the contributions that  
22 would be payable by the Members of the Retirement System under this section with respect to  
23 the service of the Members after June 30, 1983.

24 The Members' contributions picked up by the City of Charlotte shall be designated for all  
25 purposes of the Retirement System as Member contributions, except for the determination of tax  
26 upon a distribution from the Retirement System. These contributions shall be credited to the fund  
27 created by this act accumulated within the fund in a Member's account that shall be separately  
28 established for the purpose of accounting for picked-up contributions. Member contributions  
29 picked up by the City of Charlotte shall be payable from the same source of funds used for the  
30 payment of Compensation to a Member. A deduction shall be made from a Member's  
31 Compensation equal to the amount of his contributions picked up by the City of Charlotte. This  
32 deduction, however, shall not reduce his Compensation for purposes of the Retirement System.  
33 Picked-up contributions shall be transmitted to the Retirement System.

34 "Sec. 25. **City of Charlotte Contributions.** (a) ~~The Effective July 1, 2020, the~~ City of  
35 Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to  
36 the Member's Compensation multiplied by ~~twelve and sixty-five hundredths percent (12.65%)~~  
37 fourteen percent (14%) for each and every payroll of such ~~Member.~~ Member to be increased each  
38 Plan Year by two percent (2%) for the next eight years, up to a maximum contribution rate of  
39 thirty percent (30%) for each and every payroll of such Member. Upon achieving the maximum  
40 contribution rate of thirty percent (30%) specified in this section, the contribution rate shall  
41 remain at thirty percent (30%) unless the Actuarially Determined Employer Contribution  
42 (ADEC) rate falls below thirty percent (30%) in a Plan Year. In that case, the contribution rate  
43 shall be the ADEC rate or such other percentage rate as may be determined by the City upon  
44 recommendation of the Board of Trustees in accordance with Section 39 or any funding policies  
45 adopted by the Board; provided, however, that in no case shall the City's contribution rate be less  
46 than fourteen percent (14%).

47 (b) Should any Member of this Retirement System enter the Armed Forces of the United  
48 States of America, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement  
49 System for each and every payroll an amount equal to the Compensation such Member would  
50 have earned based upon the last pay grade with the Fire Department multiplied by the

1 contribution rate established pursuant to subsection (a) of this section for a period not to exceed  
2 the lesser of the Member's actual period of active military duty or five years.

3 (c) Should any Member of the Retirement System enter the Armed Forces of the United  
4 States of America, upon approval by the City Council, the City of Charlotte by and on behalf of  
5 such Member may contribute an amount equal to, but not to exceed, the Compensation such  
6 Member would have earned based upon the last pay grade with the Fire Department multiplied  
7 by the contribution rate established pursuant to Section 24 of this act. Any contributions by and  
8 on behalf of such Member shall inure to the benefit of such Member as though made by such  
9 Member under the provisions of this act unless otherwise specified in this act.

10 (c1) Should any Member of the Retirement System contribute an amount pursuant to  
11 Section 4 for the purpose of receiving Membership Service Credit for any period of benefits  
12 under the federal Family Medical Leave Act, the City of Charlotte shall contribute to the  
13 Charlotte Firefighters' Retirement System an amount equal to the Compensation that Member  
14 would have earned multiplied by the contribution rate established in Section 24 of this act.

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

18 ...

## 19 "TITLE VI. ADMINISTRATION BY BOARD OF TRUSTEES.

20 ...

21 "Sec. 29. **Board of Trustees.** (a) The Board of Trustees shall consist of 11 Trustees, as  
22 follows: (i) City Manager, or some other City department head or employee as duly designated  
23 by the City Manager; (ii) City Finance Director, or a deputy finance director as duly designated  
24 by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of the Board and three Trustees  
25 to represent the public and who are residents of Mecklenburg County and who are appointed by  
26 the Resident Judge of the Superior Court of Mecklenburg County and who shall hold office for  
27 a period of three years or until their successor shall have been appointed and been qualified; (v)  
28 three Members of the Retirement System, each of whom shall be elected by a vote of the  
29 Members of the Retirement System for a term of three years, pursuant to the ~~Charlotte~~  
30 ~~Firefighters' Retirement System Election Regulation; Election Regulations adopted by the Board;~~  
31 and (vi) one Retiree of the Retirement System to be elected by a majority vote of the retirees of  
32 the Retirement System for a term of three years, pursuant to the ~~Charlotte Firefighters' Retirement~~  
33 ~~System Election Regulation; Election Regulations adopted by the Board.~~ The terms of office for  
34 elected Member Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated  
35 so that no more than three Trustees' terms shall expire each year. Any Member shall be eligible  
36 to succeed himself as a Trustee.

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

42 "Sec. 30. **Election of Member and Retiree Trustees.** The elections of the Member Trustees  
43 as provided for in ~~Subsection Section 29(a)(v)~~ and the Retiree Trustee as provided for in  
44 ~~Subsection Section 29(a)(vi)~~ shall be administered in accordance with ~~rules and regulations~~  
45 Election Regulations adopted by the Board of Trustees from time to time.

46 "Sec. 31. **Oath of Office.** An oath of office shall be administered to the Chairman of the  
47 Board and each Trustee prior to their assumption of duties with the Board of Trustees. The oath  
48 of office shall be administered by the Mayor or the Mayor's designee only after the Trustee having  
49 first qualified and within 10 days after having been appointed or elected. The Chairman of the  
50 Board and each Trustee shall swear to diligently and honestly administer the affairs of said Board  
51 and that he will not knowingly violate or willfully permit to be violated any of the provisions of

1 the law applicable to the Retirement System. Such oath of office shall be subscribed to by the  
2 Member making it, and certified by the officer by whom it is taken, and immediately filed in the  
3 office of the City Clerk.

4 "Sec. 32. **Vacancy on Board of Trustees.** A vacancy on the Board of Trustees shall be  
5 deemed to have occurred for any or all of the following reasons:

6 (a) In the event that an elected Trustee of the Board shall make application for benefits  
7 under this act he shall first submit a written notice to the Chairman of the Board disqualifying  
8 himself from his trusteeship.

9 (b) A vacancy shall be deemed to have occurred if a Trustee or the Chairman fails to  
10 attend any three consecutive meetings of the Board without prior notification unless excused for  
11 cause by the Trustees attending said meetings.

12 (c) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should die.

13 (c1) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should fail  
14 to satisfy the classification requirements in Subsection 29(a) of this act.

15 (d) If a Trustee shall deem himself incapable of fulfilling his Board obligations for any  
16 reason or if any condition exists that renders the Trustee disqualified, the Trustee shall submit a  
17 written notice to the Chairman disqualifying himself from his trusteeship. If the Chairman shall  
18 deem himself to be disqualified for any of the foregoing reasons, he shall submit written notice  
19 to the Resident Judge of the Superior Court of Mecklenburg County.

20 (e) If a vacancy shall occur pursuant to the provisions of subsections (a) through (d) of  
21 this section, the vacancy shall be filled within 90 days after the date of the vacancy, for the  
22 unexpired portion of the term, for the same classification and in the same manner as the position  
23 was previously filled. Notwithstanding this subsection, the Board of Trustees may allow a  
24 vacancy of an elected Trustee to remain unfilled for longer than 90 days after the date of the  
25 vacancy upon the affirmative votes from a majority of the Trustees in attendance, including the  
26 Chairman, that, due to the timing of the vacancy, it would be more practical to wait for the next  
27 election to fill the vacancy.

28 ...

29 "Sec. 35. **Meetings.** (a) The Board of Trustees shall conduct its business at meetings that  
30 conform with the 'Open Meetings Law,' Article 33C of Chapter 143 of the General Statutes,  
31 G.S. 143-318.9 through G.S. 143-318.18, as amended.

32 (a1) The Board of Trustees shall hold meetings regularly, at least one in each calendar  
33 quarter, and shall designate the time and place thereof. The first regular meeting in each Plan  
34 Year shall be held on the fourth Thursday of the month of July.

35 (b) The Chairman or, in the absence of the Chairman, the Vice Chairman may hold a  
36 special meeting and/or an emergency meeting at his discretion. Additionally, upon the written  
37 request of two members of the Board of Trustees, the Chairman shall call a special meeting of  
38 the Board.

39 When a special meeting is called, the Administrator shall ~~insure~~ ensure that notice is given  
40 to each ~~trustee~~ Trustee either in ~~person~~ person, by electronic mail, or by first class mail to the  
41 address of record on file with the Administrator. Such notice shall include the purpose of the  
42 meeting and designate the time, date and place thereof. The Chairman or Vice Chairman shall  
43 ~~insure~~ ensure that the business of the special meeting be limited to the purpose as set forth in the  
44 notice.

45 When an emergency meeting is called, the Administrator shall attempt to notify each Trustee  
46 by ~~telephone to~~ the electronic mail address or the telephone number on file with the  
47 Administrator.

48 (c) Each Trustee shall be entitled to one vote on each motion presented to the Board of  
49 Trustees. The Chairman shall only vote in case of a tie or in such case as to create a quorum. Six  
50 attending Trustees, or, in the case of a vacancy, a majority of the current Trustees, including the  
51 Chairman, shall constitute a quorum at any meeting of the Board and ~~at least six~~ affirmative votes

1 from a majority of the Trustees in attendance shall be necessary for a decision by the Trustees at  
2 any meeting of said Board. Prior to any discussion of a specific agenda item for which a Trustee  
3 or the Chairman deems himself to have a conflict of interest, or at such point during discussion  
4 that he determines himself to have a conflict of interest, the Trustee or Chairman shall thereupon  
5 make such conflict known to the Board and the Board shall inquire into the nature of the conflict  
6 and make a determination whether a conflict of interest exists and if the Trustee or Chairman  
7 should participate in the discussion and vote on the agenda item.

8 (d) The Board of Trustees through the Secretary shall cause to be kept a record of all of  
9 its proceedings which shall be open to public inspection.

10 "Sec. 36. **Employment of Professional Services.** (a) The Board of Trustees shall have the  
11 authority to employ and/or utilize professional and secretarial services and to purchase and  
12 maintain such property, equipment and supplies as are deemed necessary for the proper operation  
13 of the System. All expenses, fees and/or retainers for the employment of services shall be borne  
14 by the System with the singular exception of the employment of the Actuary. All fees and  
15 expenses in connection with the employment of a qualified actuary to perform the annual  
16 evaluation of the Retirement System's financial condition shall be paid by the City of Charlotte.

17 (a1) **Actuary.** The Board of Trustees shall annually request the City to employ a qualified  
18 Actuary to perform such studies and evaluations of the Charlotte Firefighters' Retirement System  
19 as may be necessary and/or desirable by the Board or City in connection with the administration  
20 of the System. Within the meaning of this subsection, a qualified Actuary shall be an associate  
21 or fellow of the Society of Actuaries and either a member of the Conference of Consulting  
22 Actuaries or a member of the American Academy of Actuaries.

23 (b) **Medical Board.** The Board of Trustees shall appoint a Medical Board to be composed  
24 of one or more physicians to serve at the pleasure of the Board. The Medical Board shall arrange  
25 for and evaluate all medical examinations required under provisions of this act. The Medical  
26 Board shall also investigate and evaluate all medical evidence, statements, and certificates  
27 submitted by and on behalf of a Member in connection with an application for disability  
28 ~~retirement.~~ retirement pursuant to Sections 19 and 20. The Medical Board shall render its  
29 conclusions and recommendations in writing to the Board of Trustees in accordance with the  
30 provisions of this act.

31 (c) **Legal Counsel.** The City attorney and staff shall be the legal advisor to the Board of  
32 Trustees. The Board may employ separate legal counsel as it deems necessary and beneficial for  
33 the operation of the System.

34 (d) **Auditor.** The Board of Trustees shall appoint an Auditor who shall be a certified  
35 public accountant.

36 (e) **Administrator.** The Board of Trustees shall have the authority to appoint an  
37 Administrator who shall be responsible for the administration and coordination of all System  
38 operations and activities that are not otherwise specified in this act. Such administration shall be  
39 in accordance with rules and regulations of this act and the policy and direction of the Board. In  
40 the absence of an Administrator, the Secretary of the Board as specified in Section 34(b)(2) shall  
41 be responsible for the coordination of Board meetings and providing proper notice of such  
42 meetings.

43 (f) **Insurance.** The Board of Trustees may purchase and maintain that insurance  
44 coverage necessary for the proper operation of the System, including worker's compensation,  
45 fidelity insurance, and officers' and employees' liability coverage. All expenses incurred in  
46 purchasing or maintaining this coverage, including fees, and retainers, shall be borne by the  
47 System.

48 ...

#### 49 "TITLE IX. RESTRICTIONS.

50 "Sec. 51. **Restrictions.** Notwithstanding any provision of this act to the contrary:

- 1 (1) No part of the funds contributed to the Retirement System, or the income  
2 thereon, may be used for, or diverted to, purposes other than for the exclusive  
3 benefit of the Participants of the Retirement System as authorized by the  
4 provisions of this act, provided that in the event of the termination of the  
5 Retirement System, the City shall receive any surplus funds or assets after all  
6 liabilities of the Retirement System are satisfied.
- 7 (2) Upon termination of the Retirement System or upon complete discontinuance  
8 of contributions to the Retirement System, the rights of all Participants of the  
9 Retirement System to benefits accrued to the date of the termination or  
10 discontinuance, to the extent then funded, are nonforfeitable.
- 11 (3) Forfeitures under the Retirement System may not be applied to increase the  
12 benefits that any Participant would otherwise receive under the Retirement  
13 System.
- 14 (4) Notwithstanding any provision of the Retirement System to the contrary, the  
15 maximum annual benefit payable in the form of a straight life annuity from  
16 the Retirement System on behalf of a Participant, when combined with any  
17 benefits from another qualified benefit plan maintained by the City, shall not  
18 exceed the amount permitted by section 415 of the Internal Revenue Code.
- 19 (5) Any benefit payable to a Participant pursuant to Section 4 of this act shall  
20 commence not later than the April 1 immediately following the calendar year  
21 in which the Participant attains age 70 1/2 or, if later, the April 1 immediately  
22 following the calendar year in which the Participant terminates service.  
23 Additionally, the distribution of any such benefit must satisfy the minimum  
24 distribution requirements set forth in this paragraph and must be consistent  
25 with Treasury Regulations, as of the required beginning date. The minimum  
26 distribution for a calendar year equals the Participant's nonforfeitable Accrued  
27 Benefit at the beginning of the year divided by the Participant's life expectancy  
28 or, if applicable, the joint and last survivor expectancy of the ~~participant~~  
29 Participant and his Designated Beneficiary. The minimum distribution shall  
30 be computed by using the life expectancy multiples under U.S. Treasury  
31 Regulation 1.72-9. The minimum distribution for a calendar year subsequent  
32 to the first calendar year for which a minimum distribution is required may be  
33 computed by redetermining the applicable life expectancy. However, there  
34 shall be no redetermination of the joint life and last survivor expectancy of the  
35 Participant and a nonspouse Designated Beneficiary in a manner which takes  
36 into account any adjustment to a life expectancy other than the Participant's  
37 life expectancy. A distribution to the Participant in the form of a life annuity,  
38 joint and survivor annuity, or an annuity over a fixed period will satisfy the  
39 minimum distribution requirements of this paragraph if the method of  
40 distribution provides non-increasing payments or otherwise satisfies Treasury  
41 Regulations. If the Participant dies after the payment of his benefit has  
42 commenced, the death benefit provided by this act shall be paid over a period  
43 which does not exceed the payment period which had commenced. If a  
44 Participant dies prior to the time the payment of his benefit commences, the  
45 death benefit provided by this act shall be paid over a period not exceeding:  
46 (i) five years after the date of the Participant's death; or (ii) if the Beneficiary  
47 is a Designated Beneficiary, over the Designated Beneficiary's life or life  
48 expectancy. No payment of benefit over a period described in (ii) shall be  
49 permitted, unless the payment of such benefit to the Designated Beneficiary  
50 will commence no later than one year after the date of the Participant's death,  
51 or, if later, and the Designated Beneficiary is the Participant's surviving

1 spouse, the date the Participant would have attained age 70 1/2. The life  
2 expectancy multiples under U.S. Treasury Regulation 1.72-9 shall be used for  
3 purposes of applying this paragraph. The life expectancy of a Participant's  
4 surviving spouse may be recalculated not more frequently than annually, but  
5 the life expectancy of a nonspouse Designated Beneficiary may not be  
6 recalculated after the commencement of payment of benefits to the Designated  
7 Beneficiary. Any amount paid to a Participant's child, which becomes payable  
8 to the Participant's surviving spouse upon the child's attaining the age of  
9 majority, shall be treated as paid to the Participant's surviving spouse for  
10 purposes of applying this paragraph.

11 With respect to distributions under the Act made for calendar years  
12 beginning on or after January 1, 2001, the minimum distribution requirements  
13 of section 401(a)(9) of the Internal Revenue Code will be applied in  
14 accordance with the regulations under section 401(a)(9) that were proposed  
15 on January 17, 2001, notwithstanding any provision of the Act to the contrary.  
16 These regulations shall be followed until the end of the last calendar year  
17 beginning before the effective date of final regulations under section 401(a)(9)  
18 or such other date as may be specified in guidance published by the Internal  
19 Revenue Service.

20 ...."

21 **SECTION 2.** None of the provisions of this act shall create an additional liability for  
22 the Charlotte Firefighters' Retirement System unless sufficient assets are available to pay for the  
23 liability.

24 **SECTION 3.** This act applies only to the City of Charlotte.

25 **SECTION 4.** This act becomes effective July 1, 2021.