

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1840

Short Title: Winston-Salem Firemen's Fund.

(Local)

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Sponsors: Representative Duncan.

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Referred to: Pensions and Retirement.

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May 9, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW REGARDING THE WINSTON-SALEM  
3 FIREMEN'S FUND ASSOCIATION.

4 The General Assembly of North Carolina enacts:

5 Section 1. Section 2(b) of Chapter 388, 1973 Session Laws, as rewritten by  
6 Chapter 508, 1987 Session Laws, reads as rewritten:

7 "(b) As of July 1, 1987, and thereafter, any person not covered under (a) above  
8 who shall have been regularly and continuously employed full time by the Fire  
9 Department of the City of Winston-Salem (hereinafter referred to as the Fire  
10 Department), including any Fire Department mechanic or electrician, who shall have  
11 attained his 18th birthday and shall not have attained his 40th birthday. Any person not  
12 covered under (a) above who was hired by the Fire Department prior to July 1, 1987,  
13 and continues to be employed by the Fire Department on such date, and who had  
14 attained his 30th birthday when hired but had not then attained his 40th birthday, may  
15 elect within 90 days following July 1, 1987, to become a member by contributing to the  
16 Association the sum of twelve dollars (\$12.00) per month from his date of hire by the  
17 Fire Department, plus interest at the rate of ~~seven percent (7%)~~ eight percent (8%),  
18 applicable to any payments made on and after July 1, 1989, per annum, computed on the  
19 amount accrued as of the end of each fiscal year of the Association."

20 Sec. 2. Section 16 of Chapter 388, 1973 Session Laws, as rewritten by  
21 Chapter 508, 1987 Session Laws, reads as rewritten:

22 "Sec. 16. (a) Notwithstanding the provisions of subsection (b) immediately  
23 following, if a person who shall not be a member of the Association shall be transferred  
24 to the employment of the Fire Department from the employment of the City of Winston-

1 Salem (hereinafter referred to as the City), the following provisions shall apply in  
2 determining whether he shall be a member of the Association following such transfer:

3 (1) If he shall have attained at least his 18th birthday and shall not have  
4 attained his 40th birthday on the date of such transfer, he shall  
5 automatically become a member on such date of transfer. In  
6 determining such transferred employee's number of years of  
7 continuous employment by the City, employment with the City prior  
8 to such transfer shall be taken into account only if such employee shall  
9 elect to contribute to the Association the amount of twelve dollars  
10 (\$12.00) per month from the date of his hire by the City until the date  
11 of such transfer, plus interest at the rate of ~~seven percent (7%)~~ eight  
12 percent (8%), applicable to any payments made on and after July 1,  
13 1989, per annum, computed on the amount accrued as of the end of  
14 each fiscal year of the Association.

15 (2) If he shall have attained at least his 40th birthday on the date of  
16 transfer, but had not attained such birthday when last employed by the  
17 City, he may elect within 90 days following such transfer to become a  
18 member. If he elects to become a member, he shall contribute to the  
19 Association the amount he would have contributed if he had become a  
20 member on the day next preceding his 40th birthday. In addition, at  
21 the option of such employee, he may further elect to contribute such  
22 additional amount as he would have contributed prior to his 40th  
23 birthday if his employment with the City had been with the Fire  
24 Department. Any such contributions shall include interest at the rate  
25 of ~~seven percent (7%)~~ eight percent (8%), applicable to any payments  
26 made on and after July 1, 1989, per annum, computed on the amount  
27 accrued as of the end of each fiscal year of the Association.

28 (3) If he shall have attained at least his 40th birthday when last employed  
29 by the City, he shall be ineligible to become a member following such  
30 transfer.

31 (4) The elections specified in subdivisions (1) and (2) hereof shall be  
32 made in writing to the Trustees within 90 days following such transfer,  
33 and shall be irrevocable when made (subject to termination of  
34 membership upon subsequent separation from employment with the  
35 Fire Department). Any contributions (and interest) payable pursuant  
36 to such election shall be paid in cash in a lump sum at the time such  
37 election shall be filed.

38 (b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon  
39 as practicable following April 3, 1979, (but in no event more than 60 days thereafter),  
40 the Trustees gave each person who was then employed by the City of Winston-Salem as  
41 a Public Safety Officer an election to be a member or not to be a member of the  
42 Association. Each such election was to be made in accordance with procedures  
43 established by the Trustees and was irrevocable when made (subject to termination of  
44 membership upon a subsequent separation from the employment of the City, and subject

1 to the provisions of subsection (a) of this Section 16). If a Public Safety Officer failed  
2 to file a timely election, he was deemed to have elected not to be a member. If a Public  
3 Safety Officer who was a member on the date of the election elected to discontinue  
4 membership (or shall have been deemed to have so elected), within 30 days following  
5 such date there should have been refunded to him the full amount of his prior  
6 contributions to the Association, if any, without interest. If a Public Safety Officer who  
7 failed to make contributions prior to the election date elected to be a member, he shall  
8 have within 30 days following such election paid to the Association the full amount he  
9 would have contributed if he had made required contributions during the entire period  
10 that he was eligible to be a member. Such contributions included interest at the rate of  
11 six percent (6%) per annum, computed on the amount accrued as of the end of each  
12 fiscal year of the Association.

13 (c) Any member whose employment by the Fire Department as a Public Safety  
14 Officer shall be terminated on or after June 27, 1981, for any reason, including transfer  
15 to another department in the employment of the City, shall be terminated immediately  
16 as a member; provided, that any member who is transferred on or after July 1, 1981, to  
17 another department of the City in a fire-related job shall not become a terminated  
18 member if the following conditions are met: (i) within 15 days following the date of  
19 such transfer he shall file with the Trustees a written election to continue as a member;  
20 and (ii) such member shall be notified in writing by the secretary of the Association on  
21 or before the date of transfer of his right to make the election. If a terminated member  
22 shall reenter employment of the Fire Department, his eligibility to become a member  
23 shall be determined at that time in accordance with Section 2 hereof, except to the  
24 extent such individual may be entitled to elect to become a member upon a transfer of  
25 employment as provided in subsection (a) of this Section 16.

26 (d) In determining the number of years of continuous employment of a member,  
27 there shall be taken into account all years for which he shall make contributions in  
28 accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes of  
29 computing a member's years of continuous employment with the City, any period of  
30 unused sick leave with the Fire Department accrued by the member on the date of his  
31 retirement shall be deemed to be a period of continuous employment with the Fire  
32 Department.

33 (e) If any member of the Association was employed by the Fire Department as a  
34 cadet, such member's number of years of employment as a cadet may be added to the  
35 period of his continuous employment with the City if, by July 31, 1981, such member  
36 contributed to the Association an amount equal to twelve dollars (\$12.00) per month for  
37 the time he was a cadet, plus interest at the rate of six percent (6%) per annum,  
38 computed on the amount accrued as of the end of each fiscal year of the Association.

39 (f) If a member has been employed by the City continuously for a period of 10  
40 years and has any military service, and is not otherwise treated under Section 26 as  
41 being in the employment of the City during the period of such military service, the  
42 period of such military service shall nevertheless be added to his period of continuous  
43 employment with the City upon such member's paying to the Association an amount  
44 equal to twelve dollars (\$12.00) for each month of such military service plus interest at

1 the rate of ~~seven percent (7%)~~ eight percent (8%), applicable to any payments made on  
2 and after July 1, 1989, per annum, compounded annually. Such military service shall be  
3 limited to the initial period of active duty in the armed forces of the United States up to  
4 the time the member was first eligible to be separated or released therefrom, and  
5 subsequent periods of such active duty as required by the armed forces of the United  
6 States up to the date of first eligibility for separation or release therefrom. The member  
7 must submit evidence satisfactory to the Trustees of the military service claimed. Such  
8 election must be made within one year after the member first becomes eligible to  
9 contribute for such military service. Credit for military service under this subsection  
10 shall not be considered service creditable under another retirement system for purposes  
11 of G.S. 128-26(a).

12 (g) If an individual who is an active participant in the North Carolina Local  
13 Governmental Employees' Retirement System (the 'System') shall terminate service  
14 with the employer enabling the individual to participate in the System (the 'System  
15 Employer'), and shall immediately enter the employment of the Fire Department, he  
16 may elect to have his period of service under the System considered as continuous  
17 employment with the Fire Department for purposes of this act; provided, that such  
18 election shall be permitted only if the individual was under age 40 when he entered the  
19 employment of the System Employer. This election shall be made in writing to the  
20 Trustees within 90 days of the individual's commencement of employment with the Fire  
21 Department (or, with respect to an individual who becomes employed by the Fire  
22 Department prior to July 1, 1989, this election shall be made on or before September 30,  
23 1989). The election, if made, shall be accompanied by a cash contribution to the  
24 Association of an amount equal to twelve dollars (\$12.00) per month during the period  
25 of his service under the System, plus interest at the rate of eight percent (8%) per  
26 annum, compounded annually on the amount accrued as of the end of each fiscal year of  
27 the Association. The election shall be irrevocable when made. If the election is not  
28 made in a timely fashion, the right to make the election is forfeited."

29 Sec. 3. Section 18 of Chapter 388, 1973 Session Laws, as rewritten by  
30 Chapter 508, 1987 Session Laws, reads as rewritten:

31 "Sec. 18. If at any time there shall not be sufficient assets in the retirement fund of  
32 the Association to pay fully the persons entitled to benefits provided herein, such  
33 persons shall be paid such benefits on a pro rata basis to the extent the assets of such  
34 fund will allow, as shall be determined by the Trustees; provided, that the assets of such  
35 fund determined as of the close of any fiscal year of the Association shall in no event be  
36 less than ~~one million dollars (\$1,000,000)~~ one million five hundred dollars (\$1,500,000)."

37 Sec. 4. Section 19 of Chapter 388, 1973 Session Laws, as rewritten by  
38 Chapter 508, 1987 Session Laws, reads as rewritten:

39 "Sec. 19. Whenever any member of the Association has been employed by the City  
40 continuously for a period off at least 30 years, such member may make written  
41 application to the trustees for his normal retirement benefit, and whenever any member  
42 of the Association has been employed by the City continuously for a period of at least  
43 25 years but not more than 30 years, such member may make written application to the  
44 Trustees for his early retirement benefit; provided, however, that such member must

1 retire from the service of the City to receive such benefits. The normal and early  
 2 retirement benefits of such member shall be a monthly pension for the remainder of his  
 3 life, as provided hereinbelow. For this purpose and for the purpose of Section 20  
 4 hereof, a member shall be deemed to have been employed by the City continuously if  
 5 such member shall have been employed continuously by any combination of the Fire  
 6 Department or Police Department (but only such employment by the Police Department  
 7 as is described in subsection 16(b) and (c) hereof), and the transfer of a member from  
 8 the employ of one of such organizations to the employ of the other such organization  
 9 shall not be deemed to be a termination of employment by the City. Provided, that if a  
 10 member has at least 25 years of employment with the City, but such service is not  
 11 continuous solely because of a leave of absence lasting not more than a year and not  
 12 described in Section 26, such member shall be deemed to have continuous employment  
 13 with the City during such leave of absence; and provided further, that if a member has  
 14 less than 25 years of employment with the City but the sum of his years of employment  
 15 with the City plus  
 16 any leave of absence lasting not more than one year and not described in Section 26,  
 17 equals or exceeds 25 years, the period of such leave shall be deemed to be continuous  
 18 employment with the City if such member contributes to the Association twelve dollars  
 19 (\$12.00) for each month he was on such leave, plus interest at the rate of ~~seven percent~~  
 20 ~~(7%)~~ eight percent (8%), applicable to any payments made on and after July 1, 1989, per  
 21 annum, computed on the amount accrued as of the end of each fiscal year of the  
 22 Association.

23 Effective beginning July 1, 1989, and ending June 30, 1990, the ~~The~~ amount of the  
 24 monthly pension for each member who is entitled to receive a normal retirement benefit  
 25 and who retires on or after July 1, 1985, shall be one hundred eighty five dollars  
 26 ~~(\$185.00)~~(including members who retired prior to July 1, 1989) shall be two hundred  
 27 dollars (\$200.00). Effective on and after July 1, 1990, the amount of the monthly  
 28 pension for each member who is entitled to receive a normal retirement benefit  
 29 (including members who retired prior to this date) shall be two hundred fifteen dollars  
 30 (\$215.00). The amount of the monthly pension for each member who is entitled to  
 31 receive an early retirement benefit and who retires on and after July 1, 1985, as of any date  
 32 shall be the product of (1) and (2), where (1) is the applicable percentage listed in the  
 33 following table based on his years of continuous employment at his early retirement  
 34 date, and (2) ~~is one hundred eighty five dollars (\$185.00)~~is the amount of the payment that  
 35 he would have received as a normal retirement benefit under this section as of that date:

36 Years of Employment at	Percentage of Normal
37 Retirement Date	Retirement Benefit
38 25	85%
39 26	88%
40 27	91%
41 28	94%
42 29	97%

43 Payment shall be subject to the provisions of Section 18 of this act. Section 16(d)  
 44 governs the determinations of a member's years of continuous employment."

1           Sec. 5. Section 20 of Chapter 388, 1973 Session Laws, as rewritten by  
2 Chapter 508, 1987 Session Laws, reads as rewritten:

3           "Sec. 20. Whenever any member of the Association becomes totally and  
4 permanently unable, because of infirmity or disease affecting mind or body (whether or  
5 not induced by injury) to perform his duties for the City, which inability shall be  
6 determined by a medical examination by a physician or physicians of good standing and  
7 repute selected by the Trustees, he shall be deemed to be a disabled member. If a  
8 disabled member has been employed by the City for at least five full years prior to  
9 suffering disability, he shall be entitled to retire and receive a monthly benefit payable  
10 for the remainder of his life.

11           ~~In the case of such a member who retires as a disabled member on or after July 1,~~  
12 ~~1985, his monthly benefit shall equal seven dollars forty cents (\$7.40) times his years of~~  
13 ~~service, but not to exceed one hundred eighty five dollars (\$185.00). For this purpose~~  
14 ~~only, years of service shall mean the number of full years of his service in the~~  
15 ~~employment of the City. Payments shall be subject to the provisions of Section 18 of~~  
16 ~~this act. Effective beginning July 1, 1989, and ending June 30, 1989, the monthly~~  
17 ~~benefit of a member who retires as a disabled member (including a member who retired~~  
18 ~~as a disabled member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his~~  
19 ~~years of service but in no event more than two hundred dollars (\$200.00) per month.~~  
20 ~~Effective on and after July 1, 1990, the monthly benefit of a member (including a~~  
21 ~~member who retires as a disabled member prior to this date) shall equal eight dollars~~  
22 ~~and sixty cents (\$8.60) times his years of service, but in no event more than two~~  
23 ~~hundred fifteen dollars (\$215.00) per month. For this purpose only, years of service~~  
24 ~~shall mean the number of his earned years of service in the employment of the City (as~~  
25 ~~determined pursuant to Section 16(d) of this act). Payments shall be subject to the~~  
26 ~~provisions of Section 18 of this act."~~

27           Notwithstanding the foregoing provisions of this Section 20, in the case of a disabled  
28 member whose disability shall arise out of injuries incurred in fire safety activities, such  
29 as fire fighting, fire training and fire inspection, such monthly benefit shall in no event  
30 be less than forty dollars (\$40.00) per month, whether or not such disabled member was  
31 employed by the City for at least five years prior to suffering such disability. The  
32 determination of whether such disability arises out of injuries incurred in fire safety  
33 activities shall be made by the Trustees."

34           Sec. 6. None of the provisions of this act shall create an additional liability  
35 for the Winston-Salem Firemen's Fund Association unless sufficient funds are available  
36 to pay fully for the liability.

37           Sec. 7. This act shall become effective July 1, 1989.