

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-71
SENATE BILL 544**

**AN ACT TO CORRECT AN INCONSISTENCY IN THE HENDERSON FIREMEN'S
SUPPLEMENTAL RETIREMENT ACT.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 810 of the 1959 Session Laws, as amended by Chapter 374 of the 1969 Session Laws, Chapter 133 of the 1977 Session Laws, Chapter 111 of the 1981 Session Laws, Chapter 173 of the 1987 Session Laws, Chapter 897 of the 1991 Session Laws, and Chapter 636 of the 1993 Session Laws, reads as rewritten:

"Section 4. Eligibility for supplemental benefits. For the purpose of this section "supplemental benefit" as used in this section shall be defined to mean any sum of money payable by the Fund to a fireman of the Henderson City Fire Department who is a full-time paid member of the Henderson Fire Department at the time of ratification of this act or any person who shall become such a full-time paid member, provided that no person shall be eligible for benefits unless and until such person is also eligible for retirement or disability benefits as a member of the North Carolina Local Governmental Employees' Retirement System. Any disability retirement shall be on a medical board's recommendation. The board of trustees shall designate a medical board composed of three physicians. If required, other physicians may be employed in special cases. The medical board shall arrange for and make physical examinations and pass upon all medical examinations, all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusion and recommendations upon all matters referred to it. Upon the application of a member for disability retirement, he may be retired by the board of trustees not less than thirty days nor more than ninety days next following the date of filing application, provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may, and upon his application shall, require any disabled member who has not yet attained the age of fifty-five (55) years to undergo a medical examination, such examination to be made at the place of residence of said member or other place mutually agreed upon, by a physician or physicians designated by the board of trustees. Should any disabled member who has not yet attained the age of fifty-five (55) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the board of trustees, his allowance may be discontinued until his withdrawal of such refusal and should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of trustees. Should the medical board report and certify to the board of trustees that such disabled member is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his monthly compensation at time of disability, and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount which together with his pension and the amount earnable by him, shall equal the amount

of his monthly compensation. Should his earning capacity be later changed, the amount of his pension may be further modified. Should he be restored to full employment in Henderson Fire Department or by any other employer at a salary equal to his compensation at the time of disability, his retirement shall cease. Should it be determined he is physically able to return to full employment in the Henderson Fire Department and he is offered full employment in the Henderson Fire Department before he has attained fifty-five (55) years of age and he refuses employment, he forfeits all rights to retirement pension. It is further provided that this Act does not modify or alter in any way the ~~workmen's~~ Workmen's Compensation Laws of the State of North Carolina. All firemen of the Henderson City Fire Department, who retire under the above conditions, including disability retirement, as provided herein, shall receive for the remainder of his life a minimum supplemental benefit of twenty-five dollars (\$25.00) per month, ~~except that the total amount paid all retired members of the Henderson City Fire Department shall not exceed eighty percent (80%) of the income received by the Fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources.~~ month. In the event that ~~eighty percent (80%) of the income above mentioned is~~ the funds available (as limited by this Act) are insufficient to pay such minimum of twenty-five dollars (\$25.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Henderson City Fire Department. Each retired fireman receiving a supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month. Commencing July 1, 1992, the maximum payment to any retired member of the Henderson City Fire Department from the Fund is three hundred dollars (\$300.00) per month. In the event a fireman dies while receiving a supplemental benefit, but within 10 years of the date of that fireman's first receiving the supplemental benefit, the board of Trustees shall continue paying the supplemental benefit for the deceased fireman to his surviving spouse, or, if there is no surviving spouse, then to the persons entitled to receive his residuary estate, until the total months during which a supplemental benefit is paid to the fireman, his surviving spouse, and his estate equals 120 months. All funds received by the Fund (including interest received) from other sources during each fiscal year and funds from prior years may be used for payments of supplemental benefits to retired members of the Henderson City Fire Department as authorized by the Trustees and as set forth under this statute, provided, however, that a minimum of two hundred fifty thousand dollars (\$250,000) of investments shall be continuously maintained by the Fund. All Fund balances in excess of this amount may be used for benefit payments and other authorized expenses. Any Fund balances, which are not paid out, may be invested as provided in this act. The board of trustees shall have the authority and power to promulgate rules and regulations to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives