

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-246
HOUSE BILL 833

AN ACT TO RENAME THE FIREMEN'S RELIEF FUND THE FIREFIGHTERS'
RELIEF FUND IN RECOGNITION OF THE NUMEROUS FEMALE
FIREFIGHTERS WHO SERVE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-85-1 reads as rewritten:

"§ 58-85-1. Application of fund.

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "~~Firemen's~~ Firefighters' Relief Fund" of North Carolina, and shall be used as a fund for the relief of ~~firemen~~ firefighters and county fire marshals, who are members of this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as ~~firemen~~ firefighters or county fire marshals, and for the relief of ~~widows,~~ surviving spouses, children, and if there be no ~~widow~~ surviving spouse or children, then dependent mothers of the ~~firemen~~ firefighters and county fire marshals killed or dying from disease so contracted in the discharge of duty; to be paid in the manner and in the sums to the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of the Association, and any provisions and determinations made under the constitution and bylaws shall be final and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of the Association; but if any officer or committee of the Association omit or refuse to perform any duty imposed upon ~~him~~ the officer or them, nothing herein contained shall be construed to prevent any proceedings against that officer or committee to compel ~~him~~ the officer or them to perform that duty. No ~~fireman~~ firefighter or county fire marshal shall be entitled to receive any benefits under this section until the ~~firemen's~~ firefighters' relief fund of his city or town has been exhausted. Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds."

SECTION 2. G.S. 58-80-60 reads as rewritten:

"§ 58-80-60. Sums from contingent fund of State made available for administration of Article.

In order to assist in carrying out the purposes of the Article the Governor may, from time to time, make provisions for assistance to the North Carolina State Firemen's Association in a sum not to exceed two thousand five hundred dollars (\$2,500), in any one year, out of the contingent fund appropriated in the General Appropriation Act. One half of the amount so provided shall, in each instance, go to the State ~~Firemen's~~

Firefighters' Relief Fund, and one half to the expenses of the said Association incurred in carrying out the provisions of this Article."

SECTION 3. G.S. 58-84-30 reads as rewritten:

"§ 58-84-30. Trustees appointed; organization.

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the ~~firemen's relief fund~~, Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department or departments who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

- (1) The members of the fire department shall hold an election each January to elect their representatives to above board. In January 1950, the ~~firemen~~ firefighters shall elect one member to serve for two years and one member to serve for one year, then each year in January thereafter, they shall elect only one member and his term of office shall be for two years.
- (2) The mayor and board of aldermen or other local governing body shall appoint, in January 1950, two representatives to above board, one to hold office for two years and one to hold office for one year, and each year in January thereafter they shall appoint only one representative and his term of office shall be for two years.
- (3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board."

SECTION 4. G.S. 58-84-35(5) reads as rewritten:

"§ 58-84-35. Disbursement of funds by trustees.

The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

- (5) To provide for benefits of supplemental retirement, workers compensation, and other insurance and pension protection for ~~firemen~~ firefighters otherwise qualifying for benefits from the ~~Firemen's~~ Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

SECTION 5. G.S. 58-84-40(d) reads as rewritten:

"(d) In the event that any local relief fund provided for in this Article becomes impaired, then the ~~Firemen's~~ Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured ~~firemen~~ firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article."

SECTION 6. G.S. 58-84-46(3) reads as rewritten:

"§ 58-84-46. Certification to Commissioner.

On or before October 31 of each year the clerk or finance officer of each city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

- (3) That amount shall constitute a part of the ~~Firemen's~~ Firefighters' Relief Fund."

SECTION 7. G.S. 58-84-50 reads as rewritten:

"§ 58-84-50. Fire departments to be members of State Firemen's Association.

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firemen's Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the North Carolina State Firemen's Association and same shall constitute a part of the ~~firemen's relief fund.~~ Firefighters' Relief Fund."

SECTION 8. G.S. 58-84-55 reads as rewritten:

"§ 58-84-55. No discrimination on account of race.

The local boards of trustees of the ~~Firemen's~~ Firefighters' Relief Fund shall make no discrimination based upon race in the payment of benefits."

SECTION 8.1. Effective October 1, 2007, G.S. 58-84-60, as enacted by S.L. 2007-54, reads as rewritten:

"§ 58-84-60. Immunity.

A person serving on a local board of trustees of the ~~Firemen's~~ Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Was not acting within the scope of that person's official duties;
- (2) Was not acting in good faith;
- (3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- (4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or
- (5) Incurred the liability from the operation of a motor vehicle."

SECTION 9. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 11th day of
July, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:16 a.m. this 20th day of July, 2007