GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 248
HOUSE BILL 877

AN ACT TO AMEND THE LAW REGARDING THE CHARLOTTE FIREFIGHTERS' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

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

(1) 'Accrued Benefit' means the amount of monthly retirement benefits earned by a Member computed, as of any date, on his Final Average Salary and Membership Service Credit as of such date. In no event shall the Accrued Benefit be less than the Accrued Benefit as of June 30, 1986.

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

(3) 'Actuarial Valuation' or 'Valuation' means a determination of the normal costs, actuarial accrued liability, actuarial value of assets and related actuarial present values of the System performed by an Actuary which are based on the characteristics of the System. Such characteristics include, but are not limited to, age, service, salaries, and rate of turnover by death, disability, termination or retirement.

(3a) <u>'Adjustment Factor' means the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415(d) of the Code for years beginning after December 31, 1987, applied to those items and in the manner the Secretary prescribes.</u>

(4) 'Armed Forces' means the Armed Forces of the United States of America.

(5) 'Audit' means an examination of the accounting records of the System performed by a certified public accountant or certified public

accounting firm. Such examination is to determine if said records are properly maintained and to make recommendations and suggestions for better record-keeping and management.

(6) 'Beneficiary', 'Designated Beneficiary', or 'Surviving Beneficiary' means any person, or persons, who is in receipt of, or who is designated in writing to receive, a retirement benefit or other benefit as provided in this act.

(7) 'Board of Trustees', 'Board' or 'Trustee' means the Board of Trustees of the Charlotte Firefighters' Retirement System, as specified in ~~Section 6.03,~~ Section 29, or any individual member thereof.

(8) 'City' means the City of Charlotte.

(8a) 'Code' means the Internal Revenue Code of 1986, as amended.

(9) 'Compensation' means the remuneration earned by a Member for services performed as an employee of the Charlotte Fire Department and for which contributions are made to the System. ~~Compensation shall include regular wages, longevity pay, overtime (hire-back) pay, bonus payments, funeral leave, jury duty, used vacation pay, used sick leave, paid military reserve duty (paid by City), used compensatory and court time, and used holiday pay. Compensation also includes any amounts for which contributions are made by a Member to receive Membership Service Credit for any period(s) of workers' compensation and/or accident and sickness benefits pursuant to the provisions of Section 4. Compensation does not include terminal payments for unused sick leave, unused vacation pay, unused compensatory and court time, and/or unused holiday pay. Also, Compensation does not include worker's compensation payments and/or supplemental payments from the City, accident and sickness benefits, reimbursement for scheduled and/or unscheduled mileage, and/or remuneration from the City for services performed outside his employment with the Charlotte Fire Department.~~ Compensation shall include compensation received during the applicable period by the Member from the City for services performed as an employee of the Charlotte Fire Department during the taxable year ending with or within the Plan Year that is required to be reported as wages on the Member's Form W-2. Compensation also includes compensation realized during the applicable period that is not currently includable in the Member's gross income by reason of the application of sections 125, 402(a)(8), 402 (h)(1)(B), 403(b), or 457 of the Code. For the purpose of calculating a Member's Final Average Salary, any lump sum payments for which contributions were made to the System, such as longevity pay and bonus payments, and received by said Member within two consecutive years of Membership Service shall be apportioned over the previous Membership Service for which the payment(s) was earned.

(10) 'Effective Date' of this amended and restated act means ~~July 1, 1987,~~ July 1, 1989, unless otherwise specified herein.

(11) 'Final Average Salary' means the monthly average Compensation received by a Member during any two consecutive years of Membership Service which produces the highest average and is contained within the Member's last five years of Membership Service. If a Member has less than two years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service. Effective July 1, 1989, if the Member's monthly benefit, as calculated pursuant to Section 17(a) of this act, exceeds one hundred percent (100%) of his Final Average Salary, as defined by this subdivision, then 'Final Average Salary' means the monthly average Compensation received by a Member during any three consecutive years of Membership Service during which the Member was an active Member of the Retirement System and had the greatest aggregate Compensation from the City. If a Member has fewer than three years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service.

(12) 'He', 'Him', 'His', and any other pronouns and terms shall be used when referring to both male and female Members and/or Beneficiaries of this System, and vice versa.

(13) 'Investment Fiduciary' means any person, or persons, who exercises any discretionary authority or control in the investment of the System's assets and/or renders investment advice for a fee to the System.

(14) 'Majority Vote' means that number of votes which is more than fifty percent (50%) of the System Members casting ballots.

(15) 'Member' means ~~a uniformed~~ an employee of the Charlotte Fire Department who is subject to the provisions of the Civil Service Act contained in Chapter 333 of the 1969 Session Laws as amended, and, in addition, shall include the chief of the fire department where the chief was subject to the provisions of the Civil Service Act immediately prior to being appointed fire chief, and any probationary employee or officer of the fire department under the Civil Service Act.

(16) 'Membership Service Credit' or 'Membership Service' means the amount of service credited to a Member as provided in this act to determine what, if any, benefits are due him.

(17) 'Participant' means any Member, Retiree, Beneficiary in receipt of benefits or a former Member with a deferred Accrued Benefit.

(17a) 'Qualified Participant' means a Participant who is in a defined benefit plan that is maintained by a State or a political subdivision thereof; and

a. Who has at least 15 years of Membership Service Credit as a full-time employee of any police department or fire department

that is organized and operated by the State or a political subdivision, that maintains such a defined benefit plan; or

b. Who is a member of the armed forces of the United States.

(18) 'Retiree' means any person who retires with a retirement benefit payable by the System.

(19) 'Retirement System' or 'System' means the Charlotte Firefighters' Retirement System.

(20) 'Total Contributions' means the sum of the amounts paid by or on behalf of a Member and credited to his individual account by the System.

(21) ~~'Year' or 'Plan Year'~~ 'Year,' 'Plan Year,' or 'Limitation Year' means the twelve months from July 1 through June 30."

Sec. 2. Section 3 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"Sec. 3. **General.** A Member of this Retirement System shall receive Membership Service Credit for all periods of employment with the Charlotte Fire Department for which contributions have been paid to, and not subsequently refunded by, the Charlotte Firefighters' Retirement System. In no case shall more than one year of Membership Service Credit be credited a Member for any 12 calendar month period of time. ~~Membership Service Credit shall not be credited a Member after said Member attains age 70 years.~~"

Sec. 3. Section 5 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and as amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"Sec. 5. **Reinstatement of Membership Service Credit Previously Forfeited.** Membership Service Credit shall be credited for previous Membership Service for a Member who is reemployed by the Charlotte Fire Department within five years of the termination date of his previous employment, and provided the Member has not received reimbursement of his Total Contributions pursuant to the provisions of this act. Any Member who is reemployed by the Charlotte Fire Department before January 1, 1959, shall receive Membership Service Credit for all previous membership employment in said department. Any Member who was reemployed by the Charlotte Fire Department after ~~January 1, 1959,~~ December 31, 1958, and has previously received reimbursement of his Total Contributions pursuant to the provisions of this act, shall receive no Membership Service Credit for any previous membership employment with the Charlotte Fire Department."

Sec. 4. The caption of Section 7 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten :

"Purchase of ~~Active Military Duty~~ Membership Service Credit for Prior Active Military Duty."

Sec. 5. Section 10 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and as amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"Sec. 10. **Members With Less Than ~~Ten~~ Five Years of Membership Service Credit.** (a) If a Member with less than ~~ten~~ five years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said former Member shall thereupon cease membership and shall be entitled to reimbursement of the Total Contributions made by or on his behalf to the Retirement System, excluding any contributions made on the former Member's behalf by the City of Charlotte under the provisions of Section 25 of this act without interest. A former Member desiring reimbursement of said contributions must complete and file the form 'Application for Refund of Accumulated Contributions' with the Administrator within five years of the termination date of his employment. Should a former Member fail to complete and file said form with the Administrator within such five years, the ~~Former Members~~ former Member shall receive reimbursement of said contributions.

(b) If such a former Member dies within five years after terminating his employment prior to receiving reimbursement of contributions pursuant to subsection (a) of this section, his Designated Beneficiary(s) on file with the Retirement System or his personal representative in the absence of any Designated Beneficiary, may apply for reimbursement of contributions pursuant to subsection (a) of this section and must file such application with the Administrator within five years of the date of death of the former Member or the funds will be paid to the Designated Beneficiary, if living, or otherwise to the former Member's estate."

Sec. 6. Section 11 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and as amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"Sec. 11. **Members With ~~Ten~~ Five or More Years of Membership Service Credit.** (a) Effective July 1, 1986, if a Member with ten or more years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said Member shall receive his Accrued Benefit and defer such benefit until the Participant reaches age 60 years. Effective July 1, 1989, if a Member with five or more years of Membership Service Credit with this Retirement System ceases employment with the Charlotte Fire Department, whether voluntarily or involuntarily, the Member shall receive his Accrued Benefit and defer this benefit until the Participant reaches 60 years of age. The Accrued Benefit shall be calculated pursuant to the provisions of Sections 15 and 17 of this act in effect on the last day of work by said Participant. If such Participant dies before applying for his deferred benefits and attaining age 60 years, reimbursement of the Participant's contributions may be accomplished in the same manner and in all respects as in Section 10 of this act.

(b) As an alternative to the provisions of subsection (a) of this section, if a Member with ~~ten~~ five or more years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said Member shall thereupon cease membership and may elect to receive reimbursement of his contributions in the same manner and in all respects as in Section 10 of this act."

Sec. 7. Section 13 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, is repealed.

Sec. 8. Section 15 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"Sec. 15. **Service Retirement.** A Member may upon written application through the Administrator to the Board of Trustees set forth an effective date of not less than 30 days nor more than 90 days subsequent to the execution and filing thereof that he desires to be retired, provided that he has attained the age and acquired the required Membership Service Credit and has been approved by the Board:

(1) The age and Membership Service Credit requirements for service retirement are as follows:

a. Any age and 30 or more years of Membership Service Credit;

b. Age 50 years or older and 25 or more, but less than 30 years of Membership Service Credit; or

c. Effective July 1, 1986, age 60 years or older and 10 or ~~more~~ more, but fewer than 25 years of Membership Service Credit. Effective July 1, 1989, age 60 years or older and 5 or more, but fewer than 25 years of Membership Service Credit.

(2) Upon a Member's service retirement, he shall be paid a benefit as provided in Section 17 of this act."

Sec. 9. Section 16 of Chapter 926, 1947 Session Laws, as rewritten in Chapter 506, 1987 Session Laws, is repealed.

Sec. 10. Section 17(a) of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"(a) ~~Upon~~ Effective July 1, 1986, upon retirement pursuant to the provisions of Sections 15 or 16, a Member shall receive a monthly benefit equal to two and four-tenths percent (2.4%) of his Final Average Salary multiplied by his Membership Service Credit, not to exceed one hundred percent (100%) of Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1989, upon retirement pursuant to the provisions of Section 15, a Member shall receive a monthly benefit equal to two and six-tenths percent (2.6%) of his Final Average Salary multiplied by his Membership Service Credit, not to exceed one hundred percent (100%) of Final Average Salary, but not less than five hundred dollars ($500.00). The benefit payable pursuant to this subsection shall be referred to as the basic benefit. ~~The effective date of this subsection is July 1, 1986.~~"

Sec. 11. Section 19 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and as amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"Sec. 19. **Disability Retirement in the Line of Duty.** ~~(a) A Member whom the Board of Trustees finds to be totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or occupational disease arising out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department, may be retired by the Board of~~

~~Trustees upon the filing of an 'Application for Disability Retirement in the Line of Duty' by the Member or his department head with the Administrator, provided that:~~

~~(1) The Member has applied for and been granted worker's compensation benefits on account of such disability; and~~

~~(2) After a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the Board in writing that the Member is totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or occupational disease arising out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department.~~

~~(b) The Board of Trustees shall retire the Member within 90 days of its receipt of a medical report from the Medical Board that meets the requirements of subdivision (a)(2) of this section and when the Medical Board and the Board agree on such application.~~

~~(c) Upon the request by the Chairman or the Board, the examining member of the Medical Board on an application for disability retirement in the line of duty shall appear at a meeting of the Board to respond to any questions of a medical nature or to render any medical opinion necessary to clarify the medical report.~~

~~(d) In the event that the Medical Board shall certify that the Member is totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or occupational disease arising out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department and the Board of Trustees does not agree with such certification, the Board of Trustees shall deny such application. The Member shall upon such denial be given the opportunity to respond to the Board's decision. The Member shall have the right to appeal such denial to the Civil Service Board who shall render a decision on whether the Member should or should not be retired.~~

~~(e) The determination by the Board of Trustees that a Member is not entitled to disability retirement benefits under this Section provided that the Civil Service Board has not determined that he should be retired shall not prohibit such Member from filing another 'Application for Disability Retirement in the Line of Duty' at a later date, provided the application is based on additional or different facts bearing on the question of his disability.~~

~~(f) The Board of Trustees shall have the authority and may require any disability Retiree who has not attained age 70 years to undergo a medical reexamination at any time not to exceed one reexamination per year by or under the direction of the Medical Board to determine if the medical condition for which the disability Retiree was retired still exists. Upon such medical reexamination, if the disability Retiree is found able to perform active duty with the Charlotte Fire Department by the Board of Trustees, he shall be reinstated in a position equal in rank to his rank at the time he was retired as soon as such position becomes available in the Charlotte Fire Department . Refusal by the disability Retiree to submit to such medical reexamination or refusal to return to work as a result of finding by the Board of Trustees based on a medical reexamination~~

~~shall cause all retirement benefits to cease forthwith and such person shall be entitled to apply for reimbursement of the balance, if any, of his contributions to the Retirement System in the same manner and in all respects as in Section 10 of this act.~~

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

(b) An 'Application for Disability Retirement in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner.

~~(g)~~(c) Effective July 1, 1986, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to seventy-two percent (72%) of his Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1987, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to the greater of seventy-two percent (72%) or two and four-tenths percent (2.4%) multiplied by his Membership Service, of his Final Average Salary, not to exceed one hundred percent (100%) of Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this Section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all members retiring pursuant to this Section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this Section shall be effective on the date of approval by the Board of Trustees or upon exhaustion of ~~worker's~~ workers' compensation benefits, whichever is later.

~~(h) Upon the reinstatement of a disability retiree to active duty following a medical reexamination pursuant to the provisions of this section any subsequent benefit paid by the System shall be based on the length of service after reinstatement with the Charlotte Fire Department.~~

~~(1) Where a reinstated member serves less than one year after his reinstatement before retirement, his accrued benefit upon retirement shall be as follows:~~

~~a. The total accrued benefit credited between his reinstatement and subsequent retirement as computed in accordance with the provisions in effect on the date of the member's subsequent retirement; plus~~

~~b. The total accrued benefit credited at the time of his effective date of disability retirement as computed in accordance with provisions in effect on the date of his disability retirement.~~

~~(2) Where a reinstated member serves more than one year, but less than three years, after his reinstatement before retirement, his accrued benefit upon retirement shall be as follows:~~

~~a. The total accrued benefit credited between his reinstatement and subsequent retirement as computed in accordance with the provisions in effect on the date of the member's subsequent retirement; plus~~

~~b. The total accrued benefit credited on the effective date of his disability retirement as computed by applying both the provisions in effect on the date of the member's subsequent retirement and the provisions in effect on the date of the member's disability retirement. The provisions in effect on the date of the member's subsequent retirement shall be applied to one-third of the accrued benefit credited on the effective date of the member's disability retirement for each year served following reinstatement. The remaining portion of the member's accrued benefit credited on the date of his disability retirement shall be computed in accordance with provisions in effect on the effective date of the member's disability retirement. For periods greater than one calendar year, but less than three calendar years, the provisions in effect on the date of the member's subsequent retirement and the provisions in effect on the date of the member's disability retirement shall be applied proportionally to the remaining accrued benefit credited on the effective date of the member's disability retirement.~~

~~(3) Where a reinstated member serves at least three years after his reinstatement before retirement, his total accrued benefit upon retirement shall be computed in accordance with the provisions in effect on the date of his subsequent retirement.~~"

Sec. 12. Section 20 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"Sec. 20. **Disability Retirement not in the Line of Duty.** ~~(a) A Member, with 10 or more years of Membership Service Credit, whom the Board of Trustees finds to be totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or disease that did not arise out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department, may be retired by the Board of Trustees upon the filing of an 'Application for Disability Retirement Not in the Line of Duty' by the Member or his department head with the Administrator, provided that:~~

~~(1) The Member has applied for and been granted accident and sickness benefits on account of such disability; and~~

~~(2) After a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the board in~~

~~writing that the Member is totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or disease that did not arise out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department.~~

~~(b) The Board of Trustees shall retire the Member within 90 days of its receipt of a medical report from the Medical Board that meets the requirements of subdivision (a)(2) of this section and when the Medical Board and the Board agree on such application.~~

~~(c) Upon the request by the Chairman or the Board, the examining member of the Medical Board on an application for disability retirement not in the line of duty shall appear at a meeting of the Board to respond to any questions of a medical nature or to render any medical opinion necessary to clarify the medical report.~~

~~(d) In the event that the Medical Board shall certify that the Member is totally and permanently disabled or incapacitated for duty in the employ of the Charlotte Fire Department by reason of an injury, accident or disease that did not arise out of and in the course of his actual performance of duty in his employment with the Charlotte Fire Department and the Board of Trustees does not agree with such certification, the Board of Trustees shall deny such application. The Member shall upon such denial be given the opportunity to respond to the Board's decision. The Member shall have the right to appeal such denial to the Civil Service Board who shall render a decision on whether the Member should or should not be retired.~~

~~(e) The determination by the Board of Trustees that a Member is not entitled to disability retirement benefits under this section and the Civil Service Board has not determined that he should be retired, shall not prohibit such Member from filing another 'Application for Disability Retirement Not in the Line of Duty' at a later date, provided the application is based on additional or different facts bearing on the question of his disability.~~

~~(f) The Board of Trustees shall have the authority and may require any disability Retiree who has not attained age 70 years to undergo a medical reexamination at any time not to exceed one reexamination per year by or under the direction of the Medical board to determine if the medical condition for which the disability Retiree was retired still exists. Upon such medical reexamination, if the disability Retiree is found able to perform active duty with the Charlotte Fire Department by the Board of Trustees, he shall be reinstated in a position equal in rank to his rank at the time he was retired as soon as such position becomes available in the Charlotte Fire Department. Refusal by the disability Retiree to submit to such medical reexamination or refusal to return to work as a result of a finding by the Board of Trustees based on a medical reexamination shall cause all retirement benefits to cease forthwith and such person shall be entitled to apply for reimbursement of the balance, if any, of his contributions to the Retirement System in the same manner and in all respects as in Section 10 of this act.~~

(a) An 'Application for Disability Retirement not in the Line of Duty' shall be filed by a Member or his department head with the Administrator, provided that the

Member has 10 or more years of Membership Service Credit and has applied for and been granted accident and sickness benefits on account of the disability.

(b) An 'Application for Disability Retirement not in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner.

~~(g)~~(c) Effective July 1, 1986, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to thirty-six percent (36%) of his Final Average Salary, plus one and eight-tenths percent (1.8%) of his Final Average Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed one hundred percent (100%) of his Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this section shall be effective on the date of approval by the Board of Trustees.

~~(h) Upon the reinstatement of a disability retiree to active duty following a medical reexamination pursuant to the provisions of this section any subsequent benefit paid by the System shall be based on the length of service after reinstatement with the Charlotte Fire Department.~~

~~(1) Where a reinstated member serves less than one year after his reinstatement before retirement, his accrued benefit upon retirement shall be as follows:~~

~~a. The total accrued benefit credited between his reinstatement and subsequent retirement as computed in accordance with the provisions in effect on the date of the member's subsequent retirement; plus~~

~~b. The total accrued benefit credited at the time of his effective date of disability retirement as computed in accordance with provisions in effect on the date of his disability retirement.~~

~~(2) Where a reinstated member serves more than one year, but less than three years, after his reinstatement before retirement, his accrued benefit upon retirement shall be as follows:~~

~~a. The total accrued benefit credited between his reinstatement and subsequent retirement as computed in accordance with the provisions in effect on the date of the member's subsequent retirement; plus~~

~~b. The total accrued benefit credited on the effective date of his disability retirement as computed by applying both the~~

~~provisions in effect on the date of the member's subsequent retirement and the provisions in effect on the date of the member's disability retirement. The provisions in effect on the date of the member's subsequent retirement shall be applied to one-third of the accrued benefit credited on the effective date of the member's disability retirement for each year served following reinstatement. The remaining portion of the member's accrued benefit credited on the date of his disability retirement shall be computed in accordance with provisions in effect on the effective date of the member's disability retirement. For periods greater than one calendar year, but less than three calendar years, the provisions in effect on the date of the member's subsequent retirement and the provisions in effect on the date of the member's disability retirement shall be applied proportionally to the remaining accrued benefit credited on the effective date of the member's disability retirement.~~

~~(3) Where a reinstated member serves at least three years after his reinstatement before retirement, his total accrued benefit upon retirement shall be computed in accordance with the provisions in effect on the date of his subsequent retirement.~~"

Sec. 13. Section 21(a) of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, and as amended by Chapter 1033, 1987 Session Laws, Regular Session 1988, reads as rewritten:

"(a) In the event of the death of any Member of the System prior to his effective date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act, his Designated Beneficiary(s) on file with the Retirement System, or his personal representative in the absence of any Designated Beneficiary, shall be entitled to reimbursement of the Total Contributions by him or on his behalf and the City of Charlotte to the System; plus, two and five-tenths percent (2.5%) interest compounded annually on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf. However, the two and five-tenths percent (2.5%) interest shall not apply to death benefits occurring before July 1, 1989. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement. As an option, a Beneficiary may elect to receive an annuity equal to and in lieu of a lump sum distribution by so designating on the above form. Effective July 1, 1989, as an option, a surviving spouse of a deceased Member who was eligible for a service or early retirement benefit on the date preceding death may elect to receive an Actuarial Equivalent computed as of the date preceding death in the same manner as if the deceased member had retired and elected a reduced monthly amount payable throughout his life, and nominated the surviving spouse as his beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial Equivalent for all benefits payable pursuant to this section shall be computed in accordance with

the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%)."

Sec. 14. Section 23 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"Sec. 23. Post-Retirement Adjustments.

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

(b) Effective July 1, 1989, the Board of Trustees shall make an annual bonus payment in the month of January following an annual actuarial valuation when the actuary determines that the actual payroll contributions exceed the required contributions adjusted for any actuarial gains and losses that may have occurred during the preceding year. The lesser of fifty percent (50%) of the excess amount determined by the actuary or the aggregate monthly benefit of the Retirees eligible for the bonus shall be distributed. A Retiree who has been retired for at least one year as of December 31, preceding distribution of the bonus, shall receive a bonus that is determined by the Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly benefits of all Retirees eligible for the bonus."

Sec. 15. Section 29 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"Sec. 29. **Board of Trustees.** The Board of Trustees shall consist of 10 Trustees, as follows: (i) City Manager, or some other City department head or employee as duly designated by the City Manager; (ii) City Finance Director, or a deputy finance director as duly designated by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and who are residents of Mecklenburg County and who are appointed by the Resident Judge of the Superior Court of Mecklenburg County and who shall hold office for a period of three years or until their successor shall have been appointed and been qualified; and (v) three Members of the Retirement System to be elected by a Majority Vote of the Members of the Retirement System for a term of three years. The terms of office for elected Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that only one Trustee's term shall expire each year. Any Member shall be eligible to succeed himself as a Trustee."

Sec. 16. Section 51(4) of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, reads as rewritten:

"(4) Notwithstanding any provision of the Retirement System to the contrary, the maximum annual benefit payable in the form of a straight life annuity from the Retirement System on behalf of a Participant, when combined with any benefits from another qualified benefit plan maintained by the City, shall not exceed the amount as provided in this section. If the normal form of payment is other than a straight life annuity or a qualified joint and survivor annuity, the amount so determined hereunder shall be adjusted on an actuarially equivalent basis to reflect such other payment form.

If a Participant has completed 10 or more years of service, the maximum annual benefit payable in accordance with this subdivision (4) shall be the lesser of a. and b. below:

a. Ninety thousand dollars ($90,000) (or, beginning January 1, 1988), such larger dollar amount as the Commissioner of Internal Revenue may prescribe. Such amount shall be the maximum annual benefit pursuant to this subdivision a. for that calendar year and shall apply to the limitation year ending with or within that calendar year.

b. The average annual Compensation the Participant received from the City during the ~~two~~ three consecutive calendar years which would produce the highest such average.

If a Participant has completed less than 10 years of service, the maximum annual benefit payable in accordance with this subdivision (4) shall be the lesser of subdivisions a. and b. above, multiplied by the ratio that the Participant's actual number of years of service bears to 10.

If the payment of a benefit to a Participant begins after he attains age 65, the maximum benefit shall be actuarially adjusted to that amount that, if paid in the same form and beginning at the same time as the benefit, would be the actuarial equivalent of the maximum benefit that was payable in the normal form of retirement allowance beginning on the first day of the month coincident with or next following the Participant's attainment of age 65.

If the payment of a benefit to a Participant begins before he attains age 62, the maximum benefit shall be actuarially adjusted to that amount which, if paid in the same form and beginning at the same time as his benefit, would be the actuarial equivalent of the maximum benefit payable in the normal form of retirement allowance beginning on the first day of the month coincident with or next following his attaining the age of 62. The reductions required by this paragraph shall in no event reduce the limitation in this subdivision a. below seventy-five thousand dollars ($75,000), if the benefit begins on or after the Participant's attainment of age 55 or the actuarial equivalent of the seventy-five thousand dollars ($75,000) benefit limitation for age 55, if the benefit begins prior to such age.

For purposes of this subdivision (4), if benefits begin before age 62, the maximum annual benefit payable shall be adjusted by an interest rate assumption not less than the greater of five percent (5%) or the rate specified in the Retirement System. For purposes of this subdivision (4), in addition to the above limitations, if a Participant is a Qualified Participant as defined in Title 1, Section 2 (17a) of this act, the actuarial reduction to the maximum benefit payable for benefits that begin prior to the attainment of age 55 shall not be reduced to an amount less than fifty thousand dollars ($50,000). If payment of a Participant's benefit begins after age 65, the maximum annual benefit payable shall be adjusted by an interest rate assumption not greater then the lesser of five percent (5%) or the rate specified in the Retirement System.

In the event a Participant is covered by one or more defined benefit plans maintained by the City, all such plans shall be aggregated in determining whether the maximum benefit limitations hereunder have been met. Further, the maximum retirement allowance as noted above may be decreased as determined necessary by the City to

ensure that all plans will remain qualified under the Internal Revenue Code of 1986, as amended from time to time.

In addition to the other limitations set forth in the Retirement System and notwithstanding any other provisions of the Retirement System, the Accrued Benefit, including the right to any optional benefit provided in the Retirement System (and all other defined benefit plans required to be aggregated with the Retirement System under the provisions of Section 415 of the Internal Revenue Code of 1986, as amended from time to time), shall not increase to an amount in excess of the amount permitted under Section 415 of the Internal Revenue Code of 1986, as amended from time to time."

Sec. 17. Section 56 of Chapter 926, 1947 Session Laws, as rewritten by Chapter 506, 1987 Session Laws, is repealed.

Sec. 18. All laws and clauses of laws in conflict with this act are repealed.

Sec. 19. This act shall apply to the City of Charlotte only.

Sec. 20. None of the provisions of this act shall create an additional liability for the Charlotte Firefighters' Retirement System unless sufficient funds are available to pay fully for the liability.

Sec. 21. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of June, 1989.