

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 2223\***

Short Title: Charlotte Firefighters Retirement Changes. (Public)

Sponsors: Representatives Alexander; Carney, Cunningham, Earle, Gulley, Saunders, and Vinson.

Referred to: Pensions and Retirement.

May 22, 2006

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE LAW ESTABLISHING THE CHARLOTTE FIREMENS'  
RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Subsection 2(9) of Chapter 926 of the 1947 Session Laws, as rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, Chapter 171 of the 1995 Session Laws, Chapter 640 of the 1993 Session Laws, S.L. 1999-100, and S.L. 2001-22, reads as rewritten:

"(9) 'Compensation' means the remuneration reportable on Form W-2 earned by a Member for services performed as an employee of the Charlotte Fire Department prior to any reductions pursuant to sections 125, 401(k), 402(k), 402(e)(3), 414(h)(2), 403(b), 408(k)(6), and 457 of the Internal Revenue Code. Compensation shall include payments for unused sick and vacation days, longevity payments, bonus payments, and merit increases. For the purpose of calculating a Member's Final Average Salary, (i) payments for unused sick and vacation days shall be included as Compensation to the extent that the vacation and sick days for which payments are made could have accrued during two Plan Years of the Member's last five years of Membership Service, and (ii) payments for longevity shall be included as Compensation to the extent such payments were made during two Plan Years of the Member's last five years of Membership Service. Effective July 1, 2001, for purposes of applying the limitations described in Section 51 of this Act, compensation paid or made available during such limitation years shall also include elective amounts that are not includible in the gross income of the Member by reason of section 132(f)(4) of the Internal Revenue Code.

1           In addition to the other applicable limitations set forth in this Act,  
2           and notwithstanding any other provision of this Act to the contrary, for  
3           Plan Years beginning on or after January 1, 1996, the annual  
4           Compensation of each Member taken into account under the Act shall  
5           not exceed the OBRA '93 annual compensation limit. The OBRA '93  
6           annual compensation limit is one hundred fifty thousand dollars  
7           (\$150,000), as adjusted by the Commissioner for increases in the cost  
8           of living in accordance with section 401(a)(17)(B) of the Internal  
9           Revenue Code. The cost of living adjustment in effect for a calendar  
10          year applies to any period not exceeding 12 months over which  
11          Compensation is determined ('the determination period') beginning in  
12          each calendar year. If a determination period consists of fewer than 12  
13          months, the OBRA '93 annual compensation limit will be multiplied  
14          by a fraction, the numerator of which is the number of months in the  
15          determination period, and the denominator of which is 12. If  
16          Compensation for any prior determination period is taken into account  
17          in determining a Member's benefits accruing in the current Plan Year,  
18          the Compensation for that prior determination period is subject to the  
19          OBRA '93 annual compensation limit in effect for that prior  
20          determination period. For this purpose, for determination periods  
21          beginning before the first day of the first Plan Year beginning on or  
22          after January 1, 1996, the OBRA '93 annual compensation limit is one  
23          hundred fifty thousand dollars (\$150,000)."

24           **SECTION 2.** Section 13.1 of Chapter 926 of the 1947 Session Laws, as  
25          rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, Chapter 171 of the  
26          1995 Session Laws, Chapter 640 of the 1993 Session Laws, S.L. 1999-100, and S.L.  
27          2001-22, is amended by adding a new subsection to read:

28           "(c) In the event of a mandatory distribution greater than one thousand dollars that  
29          is made without the Member's consent and is made to the Member before the Member  
30          attains the later of age 62 or Normal Retirement Age, if the Member does not elect to  
31          have such distribution paid directly to an eligible retirement plan specified by the  
32          Member in a direct rollover or to receive the distribution from the Plan, the  
33          Administrator shall pay the distribution in a direct rollover to an individual retirement  
34          plan designated by the Administrator."

35           **SECTION 3.** None of the provisions of this act shall create an additional  
36          liability for the Charlotte Firefighters' Retirement System unless sufficient assets are  
37          available to pay for the liability.

38           **SECTION 4.** This act becomes effective July 1, 2006.