

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55365-LL-239* (5/3)

Short Title: Charlotte Firefighters Retirement Changes. (Public)

Sponsors: Senator Clodfelter.

Referred to:

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

1 amounts that are not includible in the gross income of the Member by
2 reason of section 132(f)(4) of the Internal Revenue Code.

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

26 **SECTION 2.** Section 13.1 of Chapter 926 of the 1947 Session Laws, as
27 rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, Chapter 171 of the
28 1995 Session Laws, Chapter 640 of the 1993 Session Laws, S.L. 1999-100, and S.L.
29 2001-22, is amended by adding a new subsection to read:

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

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

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