

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1396
Committee Substitute Favorable 7/15/98

Short Title: Winston-Salem Firemen's Retirement.

(Local)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROVISIONS OF THE WINSTON-SALEM FIREMEN'S
FUND ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979 Sessions Laws, Chapter 647 of the 1981 Session Laws, Chapter 464 of the 1983 Session Laws, Chapter 508 of the 1987 Session Laws, and Chapter 793 of the 1989 Session Laws, reads as rewritten:

"Sec. 1. That the name of the Association herein established shall be Winston-Salem Firemen's Retirement Fund Association, hereinafter referred to as the Association. References to the Association as of a date prior to April 3, 1979, and following July 1, 1973, shall mean the Winston-Salem Fire-Public Safety Retirement Fund Association, which was the name of the Association during such period.

Sec. 2. Subject to the provisions of Section 16 hereof, the following persons shall automatically be members of the Association:

(a) As of July 1, 1987, any person who was a member of the Association following the close of business of the Association immediately preceding such date.

(b) As of July 1, 1987, and thereafter, any person not covered under (a) above who shall have been regularly and continuously employed full time by the Fire Department of

1 the City of Winston-Salem (hereinafter referred to as the Fire Department), including any
2 Fire Department mechanic or electrician, who shall have attained his 18th birthday and
3 shall not have attained his 40th birthday. Any person not covered under (a) above who
4 was hired by the Fire Department prior to July 1, 1987, and continues to be employed by
5 the Fire Department on such date, and who had attained his 30th birthday when hired but
6 had not then attained his 40th birthday, may elect within 90 days following July 1, 1987,
7 to become a member by contributing to the Association the sum of twelve dollars
8 (\$12.00) per month from his date of hire by the Fire Department, plus interest at the rate
9 of eight percent (8%), applicable to any payments made on and after July 1, 1989, per
10 annum, computed on the amount accrued as of the end of each fiscal year of the
11 Association.

12 (c) Notwithstanding the provisions of subsection (b) immediately preceding, as a
13 condition to any person's becoming a member of the Association pursuant to the
14 provisions of subsection 2(b) or 16(a), the Trustees may require such person to undergo a
15 physical examination by a physician or physicians of good standing or repute selected by
16 the Trustees. If it shall be found from such physician's report that such person is not in
17 good physical or mental condition as of the date he would be eligible to become a
18 member of the Association, such person shall be denied membership in the Association.
19 The determinations of whether or not such person shall be required to undergo a physical
20 examination and whether or not he is in good physical or mental condition shall be made
21 by the Trustees. In making such determinations, all persons similarly situated shall be
22 treated alike. The cost of any medical examination required pursuant to the provisions of
23 this subsection (c) shall be borne by the person seeking membership in the Association.

24 Sec. 3. The Association may provide and raise funds in any legal manner to be
25 used as a pension fund for such person or persons as may be entitled thereto under the
26 provisions of this act and to such extent as is hereinafter set out.

27 Sec. 4. The governing body of the Association shall consist of a Board of
28 Trustees five in number, four from the membership of the Fire Department, and one to be
29 appointed by the Insurance Commissioner of the State of North Carolina.

30 Sec. 5. The Trustees from the membership of the Fire Department shall be
31 elected by the members of the Fire Department for four-year terms. Such terms shall be
32 staggered, so that two of the Trustees shall be elected during the month of January of
33 each year ~~evenly divisible by two. Prior to each election, each fire company may, by majority~~
34 ~~vote of the active members of the company, nominate one candidate for election as Trustee.~~
35 ~~Only members of the Association, in good standing, who have~~ divisible evenly by two.
36 Trustees that are slated to leave the Board are automatically candidates for reelection
37 unless they choose not to serve another term. In addition, the elected Association
38 Trustees shall select from the members of the Fire Department four members in good
39 standing, each of whom continuously served in the Fire Department for a period of at
40 least four years shall be eligible for election as Trustees. The two nominees receiving the
41 highest number of votes cast in such election shall be elected. ~~years. A general election shall~~
42 then be held by the membership of the Fire Department to elect from the list of
43 candidates two Trustees to serve a four-year term. Each member of the Fire Department

1 in good standing may cast two votes for the member's choice of nominees. The nominee
2 receiving the highest number of votes in the election will be a member of the Winston-
3 Salem Firemen's Relief Fund Board as well as the Association Board. In the event that a
4 Trustee is unable to complete the Trustee's term, the nominee receiving the next highest
5 number of votes in the last election held and who is not then serving as a Trustee shall
6 complete the unexpired term of the Trustee who resigned from the Board. A tie shall be
7 resolved by casting lots. In such election, each member of the Association in good standing
8 may vote for two nominees. For purposes of this Section 5, the administrative offices of the Fire
9 Department shall be deemed to be a fire company.

10 Sec. 6. Any Trustee may resign at any time by giving notice in writing to the
11 other Trustees. Should any Trustee who is a member of the Fire Department cease to be
12 a member of the Fire Department for any reason, he shall automatically cease to be a
13 Trustee. With regard to any Trustee elected by the members of the Association who
14 resigns or ceases to be a Trustee for any reason, his successor shall be elected as provided
15 in Section 5 of this act; ~~provided, that such election shall be held as soon as practicable~~
16 ~~following such resignation or cessation, each member of the Association in good standing may~~
17 ~~vote for only one nominee, the one nominee receiving the highest number of votes shall be~~
18 ~~elected, and the election shall be only for the remaining unexpired term of the predecessor~~
19 ~~Trustee.~~ act. Should the Trustee who was appointed by the Insurance Commissioner of
20 the State of North Carolina resign or cease to be a Trustee for any reason, his successor
21 shall be appointed by the said Insurance Commissioner.

22 Sec. 7. The Board of Trustees is herein fully vested with the exclusive right
23 and authority to pay out the funds of this Association, as provided for in this act. All
24 matters and claims provided for under this act shall be passed upon by said Trustees and
25 all decisions and actions of said Trustees shall be binding upon the Association and the
26 members thereof. Every Trustee shall be entitled to one vote except the chairman of the
27 Board of Trustees, who shall be entitled to vote only to break a tie. At every annual
28 meeting of the Board of Trustees, the Trustees shall elect a chairman, vice-chairman,
29 secretary and treasurer. The secretary and treasurer need not be Trustees, and the offices
30 of secretary and treasurer may be combined into a single office, in the discretion of the
31 Trustees. The annual meeting of the Board of Trustees shall be held as soon as is
32 practicable following the end of each calendar year at such place and at such time as shall
33 be determined by the Trustees.

34 Sec. 8. The secretary of the Association (or the secretary-treasurer if such
35 offices shall be combined into a single office) shall be entitled to receive monthly
36 compensation in an amount not to exceed one hundred dollars (\$100.00) per month, as
37 determined by the Trustees. ~~the amount of the monthly normal retirement benefit payable~~
38 for the month for which compensation is payable, determined pursuant to Section 19 of
39 this act. The Trustees, as such, including the chairman and the vice-chairman, shall serve
40 without compensation. The Trustees may authorize reimbursement by the Association to
41 any officer or Trustee of the Association for all expenses incurred by such person in
42 connection with services rendered in behalf of the Association.

1 Sec. 9. The Trustees shall elect a custodian of all funds and property of the
2 Association, provided that such custodian shall have first offered proof satisfactory to the
3 Trustees, by bond or otherwise, that it is and will be financially responsible for all
4 property coming into its hands in a fiduciary capacity. Said custodian shall not release
5 any of the funds or property of the Association for reasons other than investment of such
6 funds or property except upon the written authorization of the Trustees.

7 The Trustees shall also elect an investment manager who may or may not be the same
8 person as the custodian. Any such investment manager shall be a bank, or an insurance
9 company, or an entity registered under the Investment Advisor's Act of 1940. The
10 investment manager shall be authorized to invest and reinvest the funds or property of the
11 Association in the investment manager's own judgment and discretion. The investment
12 manager shall report to the Trustees on a periodic basis, but not less frequently than each
13 calendar quarter. The investment manager (including said custodian when acting as
14 investment manager) shall not be liable to the Association for any act of failure to act by
15 it, except for gross negligence or willful misconduct.

16 Sec. 10. A special meeting of the Board of Trustees may be called by the
17 chairman or vice-chairman, or by any two Trustees, upon 24 hours' written notice
18 delivered in person to the members of said Board or mailed to the last known address of
19 each member of said Board. A majority of the Trustees in office shall constitute a
20 quorum at any meeting and a majority vote of the Trustees at a meeting at which a
21 quorum is present shall constitute action by the Trustees.

22 Sec. 11. The chairman of the Board of Trustees, when present, shall preside at
23 all meetings. In the absence of the chairman, the vice-chairman shall act as chairman.

24 Sec. 12. The secretary shall keep in complete form such data as shall be
25 necessary for actuarial valuation of the funds of the Association and for checking the
26 disbursements for and on behalf of the Association. He shall keep minutes of all
27 proceedings of the Board of Trustees and of the Association, and the same shall be kept
28 in a place selected by the Trustees. The treasurer of the Association shall post yearly at
29 each fire station and at the office of ~~each police district, fire administration,~~ as soon as
30 practicable following the end of each year, a financial statement of the Association.

31 Sec. 13. The treasurer of the Association shall deposit with the custodian all
32 funds and property that may come into his hands for the Association. The said treasurer
33 shall obtain a receipt from the custodian for all funds and property delivered to the
34 custodian by the treasurer. Said custodian shall invest and reinvest such funds and
35 property as directed by the investment manager appointed under Section 9.
36 Notwithstanding any contrary provisions of Section 9 or of this section, the Trustees are
37 specifically authorized and empowered to invest funds of the Association by depositing
38 such funds with the Winston-Salem Firemen's Credit Union on condition that the
39 Association shall receive interest at an annual rate agreed upon by the Association and
40 such credit union.

41 Sec. 14. The custodian and the investment manager shall receive
42 compensation for services rendered as may be agreed upon from time to time in writing
43 by the Trustees and by the custodian (with respect to services rendered by the custodian)

1 or the investment manager (with respect to services rendered by the investment manager).
2 The Trustees shall have the authority to employ legal counsel when, in the opinion of the
3 Trustees, legal counsel is necessary. In case of such employment, said counsel shall be
4 paid such fees as may be fair and reasonable as agreed upon in writing by the Trustees
5 and the counsel so employed.

6 Sec. 15. On or before August 31, 1987, the Board of Trustees of the Winston-
7 Salem Firemen's Relief Fund shall transfer to the Board of Trustees of the Winston-
8 Salem Firemen's Retirement Fund Association out of properties and funds belonging to
9 the Winston-Salem Firemen's Relief Fund the sum of fifty-four thousand dollars
10 (\$54,000) in cash or assets. The assets so transferred pursuant to the immediately
11 preceding sentence shall be transferred upon the basis of the fair market value thereof as
12 of the date of transfer, and the particular assets to be transferred shall be determined by
13 joint action of the Board of Trustees of the Winston-Salem Firemen's Relief Fund and the
14 Board of Trustees of the Winston-Salem Firemen's Retirement Fund Association. All
15 property of the Association is hereby relieved from any and all claims of the persons
16 entitled to relief from the Winston-Salem Firemen's Relief Fund. The North Carolina
17 Firemen's Association, its officers, members, boards and committees, are also hereby
18 relieved of any claim of any kind whatsoever which may be based on past service,
19 present service or future service in the Winston-Salem Fire Department. The Winston-
20 Salem Firemen's Relief Fund and the officers, members, boards and committees of said
21 Fund, are also hereby relieved of any claim of any kind whatsoever which may be based
22 on past, present or future service in the Winston-Salem Fire Department, if any, so long
23 as any claimant is entitled to benefits or pension under the provisions of this act.

24 Sec. 16. (a) Notwithstanding the provisions of subsection (b) immediately
25 following, if a person who shall not be a member of the Association shall be transferred
26 to the employment of the Fire Department from the employment of the City of Winston-
27 Salem (hereinafter referred to as the City), the following provisions shall apply in
28 determining whether he shall be a member of the Association following such transfer:

- 29 (1) If he shall have attained at least his 18th birthday and shall not have
30 attained his 40th birthday on the date of such transfer, he shall
31 automatically become a member on such date of transfer. In
32 determining such transferred employee's number of years of continuous
33 employment by the City, employment with the City prior to such
34 transfer shall be taken into account only if such employee shall elect to
35 contribute to the Association the ~~amount~~ sum of (i) plus (ii) plus (iii),
36 where (i) is the amount of twelve dollars (\$12.00) per ~~month~~ month,
37 measured from the date of his hire by the City until earlier of the date of
38 such transfer, ~~plus interest~~ transfer and June 30, 1998; (ii) is the aggregate
39 amount that the person would have contributed, determined in
40 accordance with Section 17 of this act, measured from July 1, 1998,
41 until the date of the transfer, if the transfer occurs on or after July 1,
42 1998; and (iii) is interest accrued at the rate of eight percent (8%),
43 ~~applicable~~ (8%) with respect to any payments made on and after July 1,

1 1989, per annum, ~~computed~~ compounded annually on the amount
2 accrued as of the end of each fiscal year of the Association.

3 (2) If he shall have attained at least his 40th birthday on the date of transfer,
4 but had not attained such birthday when last employed by the City, he
5 may elect within 90 days following such transfer to become a member.
6 If he elects to become a member, he shall contribute to the Association
7 the amount he would have contributed if he had become a member on
8 the day next preceding his 40th birthday. In addition, at the option of
9 such employee, he may further elect to contribute such additional
10 amount as he would have contributed prior to his 40th birthday if his
11 employment with the City had been with the Fire Department. Any
12 such contributions shall include interest at the rate of eight percent
13 (8%), applicable to any payments made on and after July 1, 1989, per
14 annum, computed on the amount accrued as of the end of each fiscal
15 year of the Association.

16 (3) If he shall have attained at least his 40th birthday when last employed
17 by the City, he shall be ineligible to become a member following such
18 transfer.

19 (4) The elections specified in subdivisions (1) and (2) hereof shall be made
20 in writing to the Trustees within 90 days following such transfer, and
21 shall be irrevocable when made (subject to termination of membership
22 upon subsequent separation from employment with the Fire
23 Department). Any contributions (and interest) payable pursuant to such
24 election shall be paid in cash in a lump sum at the time such election
25 shall be filed.

26 (b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon
27 as practicable following April 3, 1979, (but in no event more than 60 days thereafter), the
28 Trustees gave each person who was then employed by the City of Winston-Salem as a
29 Public Safety Officer an election to be a member or not to be a member of the
30 Association. Each such election was to be made in accordance with procedures
31 established by the Trustees and was irrevocable when made (subject to termination of
32 membership upon a subsequent separation from the employment of the City, and subject
33 to the provisions of subsection (a) of this Section 16). If a Public Safety Officer failed to
34 file a timely election, he was deemed to have elected not to be a member. If a Public
35 Safety Officer who was a member on the date of the election elected to discontinue
36 membership (or shall have been deemed to have so elected), within 30 days following
37 such date there should have been refunded to him the full amount of his prior
38 contributions to the Association, if any, without interest. If a Public Safety Officer who
39 failed to make contributions prior to the election date elected to be a member, he shall
40 have within 30 days following such election paid to the Association the full amount he
41 would have contributed if he had made required contributions during the entire period
42 that he was eligible to be a member. Such contributions included interest at the rate of

1 six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal
2 year of the Association.

3 (c) Any member whose employment by the Fire Department as a Public Safety
4 Officer shall be terminated on or after June 27, 1981, for any reason, including transfer to
5 another department in the employment of the City, shall be terminated immediately as a
6 member; provided, that any member who is transferred on or after July 1, 1981, to
7 another department of the City in a fire-related job shall not become a terminated member
8 if the following conditions are met: (i) within 15 days following the date of such transfer
9 he shall file with the Trustees a written election to continue as a member; and (ii) such
10 member shall be notified in writing by the secretary of the Association on or before the
11 date of transfer of his right to make the election. If a terminated member shall reenter
12 employment of the Fire Department, his eligibility to become a member shall be
13 determined at that time in accordance with Section 2 hereof, except to the extent such
14 individual may be entitled to elect to become a member upon a transfer of employment as
15 provided in subsection (a) of this Section 16.

16 (d) In determining the number of years of continuous employment of a member,
17 there shall be taken into account all years for which he shall make contributions in
18 accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes of
19 computing a member's years of continuous employment with the City, any period of
20 unused sick leave with the Fire Department accrued by the member on the date of his
21 retirement shall be deemed to be a period of continuous employment with the Fire
22 Department.

23 (e) If any member of the Association was employed by the Fire Department as a
24 cadet, such member's number of years of employment as a cadet may be added to the
25 period of his continuous employment with the City if, by July 31, 1981, such member
26 contributed to the Association an amount equal to twelve dollars (\$12.00) per month for
27 the time he was a cadet, plus interest at the rate of six percent (6%) per annum, computed
28 on the amount accrued as of the end of each fiscal year of the Association.

29 (f) If a member has been employed by the City continuously for a period of 10
30 years and has any military service, and is not otherwise treated under Section 26 as being
31 in the employment of the City during the period of such military service, the period of
32 such military service shall nevertheless be added to his period of continuous employment
33 with the City upon such member's paying to the Association an amount equal to twelve
34 dollars (\$12.00) for each month of such military service plus interest at the rate of eight
35 percent (8%), applicable to any payments made on and after July 1, 1989, per annum,
36 compounded annually. Such military service shall be limited to the initial period of
37 active duty in the armed forces of the United States up to the time the member was first
38 eligible to be separated or released therefrom, and subsequent periods of such active duty
39 as required by the armed forces of the United States up to the date of first eligibility for
40 separation or release therefrom. The member must submit evidence satisfactory to the
41 Trustees of the military service claimed. Such election must be made within one year
42 after the member first becomes eligible to contribute for such military service. Credit for

1 military service under this subsection shall not be considered service creditable under
2 another retirement system for purposes of G.S. 128-26(a).

3 (g) If an individual who is an active participant in the North Carolina Local
4 Governmental Employees' Retirement System (the 'System') shall terminate service with
5 the employer enabling the individual to participate in the System (the 'System
6 Employer'), and shall immediately enter the employment of the Fire Department, he may
7 elect to have his period of service under the System considered as continuous
8 employment with the Fire Department for purposes of this act; provided, that such
9 election shall be permitted only if the individual was under age 40 when he entered the
10 employment of the System Employer. This election shall be made in writing to the
11 Trustees within 90 days of the individual's commencement of employment with the Fire
12 Department (or, with respect to an individual who becomes employed by the Fire
13 Department prior to July 1, 1989, this election shall be made on or before September 30,
14 1989). The election, if made, shall be accompanied by a cash contribution to the
15 Association of ~~an amount equal to the sum of (i) plus (ii) plus (iii), where (i) is the amount~~
16 ~~of twelve dollars (\$12.00) per month during the period of his service under the System, plus~~
17 ~~interest measured from the date of the person's hiring by the City until the earlier of the~~
18 ~~transfer and June 30, 1998; (ii) is the aggregate amount that the person would have~~
19 ~~contributed, determined in accordance with Section 17 of this act, measured from July 1,~~
20 ~~1998, until the date of the transfer, if the transfer occurs on or after July 1, 1998; and (iii)~~
21 ~~is interest accrued at the rate of eight percent (8%) per annum, compounded annually on~~
22 ~~the amount accrued as of the end of each fiscal year of the Association. The election~~
23 ~~shall be irrevocable when made. If the election is not made in a timely fashion, the right~~
24 ~~to make the election is forfeited.~~

25 Sec. 17. The Treasurer of the City shall make a ~~monthly~~ deduction from the
26 salary of each member of the Association (~~except for members in the employ of the~~
27 ~~Police Department) due him by the City in the amount directed in writing by the Trustees,~~
28 ~~not to exceed twelve dollars (\$12.00) per month, and the due him by the City. The~~
29 ~~amount of each such deduction shall be determined as of the first day of each fiscal year~~
30 ~~of the City, and shall be equal to the quotient obtained by dividing (i) the product,~~
31 ~~rounded to the nearest dollar, of .007 multiplied by the annual starting salary of a~~
32 ~~firefighter employed by the Fire Department in effect at the beginning of that fiscal year;~~
33 ~~by (ii) the number of payroll periods in that fiscal year. The amount so deducted shall be~~
34 ~~turned over monthly as soon as practicable after the applicable payroll period by the said~~
35 ~~Treasurer to the custodian of the Association as hereinbefore provided, and the~~
36 ~~Association shall have the authority to accept donations from any and all sources~~
37 ~~whatsoever.~~

38 Sec. 18. If at any time there shall not be sufficient assets in the retirement fund
39 of the Association to pay fully the persons entitled to benefits provided herein, such
40 persons shall be paid such benefits on a pro rata basis to the extent the assets of such fund
41 will allow, as shall be determined by the Trustees; provided, that the assets of such fund
42 determined as of the close of any fiscal year of the Association shall in no event be less
43 than ~~one million five hundred thousand dollars (\$1,500,000).~~ one hundred thirty percent

1 (130%) of the present value of current retirees determined as of the close of that fiscal
2 year. Effective on or after July 1, 1998, the Trustees shall obtain a written report from
3 the Association's actuary as of July 1 of each year evenly divisible by two, or more
4 frequently if the Trustees deem advisable, setting forth the present value of the assets of
5 the fund and the present value of current liabilities of current retirees.

6 Sec. 19. Whenever any member of the Association has been employed by the
7 City continuously for a period ~~off~~of at least 30 years, such member may make written
8 application to the trustees for his normal retirement benefit, and whenever any member of
9 the Association has been employed by the City continuously for a period of at least 25
10 years but not more than 30 years, such member may make written application to the
11 Trustees for his early retirement benefit; provided, however, that such member must
12 retire from the service of the City to receive such benefits. The normal and early
13 retirement benefits of such member shall be a monthly pension for the remainder of his
14 life, as provided hereinbelow. For this purpose and for the purpose of Section 20 hereof,
15 a member shall be deemed to have been employed by the City continuously if such
16 member shall have been employed continuously by any combination of the Fire
17 Department or Police Department (but only such employment by the Police Department
18 as is described in subsection 16(b) and (c) hereof), and the transfer of a member from the
19 employ of one of such organizations to the employ of the other such organization shall
20 not be deemed to be a termination of employment by the City. Provided, that if a
21 member has at least 25 years of employment with the City, but such service is not
22 continuous solely because of a leave of absence lasting not more than a year and not
23 described in Section 26, such member shall be deemed to have continuous employment
24 with the City during such leave of absence; and provided further, that if a member has
25 less than 25 years of employment with the City but the sum of his years of employment
26 with the City plus
27 any leave of absence lasting not more than one year and not described in Section 26,
28 equals or exceeds 25 years, the period of such leave shall be deemed to be continuous
29 employment with the City if such member contributes to the Association twelve dollars
30 (\$12.00) for each month he was on such leave, plus interest at the rate of eight percent
31 (8%), applicable to any payments made on and after July 1, 1989, per annum, computed
32 on the amount accrued as of the end of each fiscal year of the Association.

33 Effective beginning July 1, 1989, and ending June 30, 1990, the amount of the
34 monthly pension for each member who is entitled to receive a normal retirement benefit
35 (including members who retired prior to July 1, 1989) shall be two hundred dollars
36 (\$200.00). Effective beginning July 1, 1990, and ending June 30, 1998, the amount of
37 the monthly pension for each member who is entitled to receive a normal retirement
38 benefit, including members who retired prior to July 1, 1990, shall be two hundred fifteen
39 dollars (\$215.00). Effective on and after July 1, 1998, the amount of the monthly pension
40 for each member who is entitled to receive a normal retirement benefit (including
41 members who retired prior to that date) shall be two hundred five dollars (\$205.00). The
42 amount of the monthly pension for each member who is entitled to receive an early
43 retirement benefit as of any date prior to July 1, 1998, shall be the product of (1) and (2),

1 where (1) is the applicable percentage listed in the following table based on his years of
 2 continuous employment at his early retirement date, and (2) is the amount of the payment
 3 that he would have received as a normal retirement benefit under this section as of that
 4 date:

Years of Employment at Retirement Date	Percentage of Normal Retirement Benefit
25	85%
26	88%
27	91%
28	94%
29	97%

13 Effective on and after July 1, 1998, the amount of the monthly pension for each member
 14 who began receiving an early retirement benefit prior to July 1, 1998, shall be further
 15 reduced by multiplying the monthly pension amount by 0.9535.

16 Effective on and after July 1, 1998, the amount of the monthly pension of each
 17 member who retires on or after that date and is entitled to receive an early retirement
 18 benefit shall be the product of (1) the applicable percentage listed in the following table
 19 based on the member's years of continuous employment at the member's early retirement
 20 date, and (2) the amount of the payment that the member would have received as a
 21 normal retirement benefit under this section as of that date:

<u>Years of Employment at Retirement Date</u>	<u>Percentage of Normal Retirement Benefit</u>
<u>25</u>	<u>70%</u>
<u>26</u>	<u>76%</u>
<u>27</u>	<u>82%</u>
<u>28</u>	<u>88%</u>
<u>29</u>	<u>94%</u>

30 Payment shall be subject to the provisions of Section 18 of this act. Section 16(d)
 31 governs the determinations of a member's years of continuous employment.

32 Sec. 20. Whenever any member of the Association becomes totally and
 33 permanently unable, because of infirmity or disease affecting mind or body (whether or
 34 not induced by injury) to perform his duties for the City, which inability shall be
 35 determined by a medical examination by a physician or physicians of good standing and
 36 repute selected by the Trustees, he shall be deemed to be a disabled member. If a
 37 disabled member has been employed by the City for at least five full years prior to
 38 suffering disability, he shall be entitled to retire and receive a monthly benefit payable for
 39 the remainder of his life.

40 Effective beginning July 1, 1989, and ending June 30, 1989, the monthly benefit of a
 41 member who retires as a disabled member (including a member who retired as a disabled
 42 member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his years of service
 43 but in no event more than two hundred dollars (\$200.00) per month. Effective ~~on and~~

1 ~~after July 1, 1990, beginning July 1, 1990, and ending June 30, 1998, the monthly benefit~~
2 of a member (including a member who retires as a disabled member prior to this date)
3 shall equal eight dollars and sixty cents (\$8.60) times his years of service, but in no event
4 more than two hundred fifteen dollars (\$215.00) per month. Effective on and after July 1,
5 1998, the monthly benefit of a member who retires as a disabled member, including a
6 member who retires as a disabled member prior to July 1, 1998, shall equal eight dollars
7 and twenty cents (\$8.20) times his years of service, but in no event more than two
8 hundred five dollars (\$205.00) per month. For this purpose only, years of service shall
9 mean the number of his earned years of service in the employment of the City (as
10 determined pursuant to Section 16(d) of this act). Payments shall be subject to the
11 provisions of Section 18 of this act.

12 Notwithstanding the foregoing provisions of this Section 20, in the case of a disabled
13 member whose disability shall arise out of injuries incurred in fire safety activities, such
14 as fire fighting, fire training and fire inspection, such monthly benefit shall in no event be
15 less than forty dollars (\$40.00) per month, whether or not such disabled member was
16 employed by the City for at least five years prior to suffering such disability. The
17 determination of whether such disability arises out of injuries incurred in fire safety
18 activities shall be made by the Trustees.

19 Sec. 21. Any disabled member of the Association who retires under Section 19
20 hereof and who had not been employed by the City for a period of at least 30 years prior
21 to retirement, shall be subject to call by the Trustees for reexamination by a physician of
22 good standing and repute selected by the Trustees and, if based upon such examination it
23 is determined by the Trustees that such member is able to perform active duties for the
24 City, such member may be reinstated and receive for his services the same compensation
25 paid to other employees of the City of his rank or classification. If such member, upon
26 being called by the Trustees, shall refuse to submit to an examination or shall refuse to be
27 reinstated to active duty in the employ of the City after being found to be able to perform
28 active duty, such benefits as he is then receiving under the provisions of this act shall
29 immediately terminate and his membership in this Association shall automatically
30 terminate. But in the event that such member is physically unable to resume active
31 employment, or in the event he is able and willing to resume active employment but no
32 job with the City is open for him at such time, his pension or compensation shall continue
33 until there shall be an opening for such member and he is reemployed by the City. For
34 the purpose of this Section 21, employment with the City shall mean only employment
35 with the Fire Department or Police Department (but employment with the Police
36 Department shall be included only with regard to any such member who was employed
37 with the Police Department prior to his retirement under Section 20 hereof).

38 Sec. 22. When any member of the Association shall resign or be dismissed
39 from employment by the City (which for this purpose shall include only employment
40 with the Fire Department or Police Department), he shall receive a sum of money equal
41 to all monies paid into the Association by him. Upon the death of any member of the
42 Association while in the employment of the City, a sum of money equal to all monies
43 paid into the Association by such deceased member shall be paid to the beneficiary or

1 beneficiaries designated in writing by such deceased member, or in default thereof, to his
2 estate. If, after retirement, a member of the Association shall die before having received
3 an amount equal to his contributions to the Association, there shall be paid to the
4 beneficiary or beneficiaries designated by such member, or in default thereof to his
5 estate, an amount equal to his contributions less the sum of retirement benefits paid to
6 such member. The reimbursements provided in this Section 22 shall be in cash in a lump
7 sum, unless otherwise determined by the Trustees with the consent in writing of the
8 recipient thereof less interest, if any, previously contributed to the Association by the
9 member pursuant to Section 16 or Section 19.

10 Sec. 23. No amount payable or held by the Association under this act for the
11 benefit of any member or beneficiary thereof shall be subject in any manner to
12 anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, nor
13 shall any amount payable or held under this act for the benefit of any member or
14 beneficiary thereof be in anywise liable for his debts, contracts, liabilities, engagements,
15 or torts, nor be subject to any legal process to levy upon or attach, but the provisions of
16 this Section 22 shall not be applicable as regards any dealings with or obligations to the
17 Winston-Salem Firemen's Credit Union.

18 Sec. 24. Out of the amount paid to the Insurance Commissioner of the State of
19 North Carolina upon the amount of all premiums on fire and lightning policies covering
20 property situated in the corporate limits of the City, the Insurance Commissioner of the
21 State of North Carolina shall pay annually to the Treasurer of the City ninety-five percent
22 (95%), and the Treasurer of the City shall immediately pay over the same to the treasurer
23 of the Association, or if the treasurer of the Association shall so direct, the Treasurer of
24 the City shall pay such amount directly to the custodian.

25 Sec. 25. No member of this Association or Trustee shall be personally liable in
26 any manner whatsoever to any person, association, firm or corporation by reason of his
27 connection with, or act or acts on behalf of, said Association, unless such act or acts are
28 fraudulently committed.

29 Sec. 26. If a member of the Association, or an employee of the Fire
30 Department or Police Department who is not a member of the Association due to failure
31 to meet the minimum age requirements of subsection 2(b) hereof, is granted a leave of
32 absence from employment by the City on account of accidental injury or temporary
33 illness, military service during time of active warfare, compulsory military service in time
34 of peace, or other good cause, for the purpose of this act such employee shall be deemed
35 to have remained in the employment of the City during the period of such leave of
36 absence or any extension thereof if he shall return to active service with the City
37 promptly following the end of the period of such leave of absence or extension thereof.
38 During such leave of absence or extension thereof, the Treasurer of the City shall make
39 no deductions from the salary, if any, of such member, and such member shall not
40 otherwise be required to make any contributions to the Association during or with respect
41 to such period.

42 Sec. 27. If any person entitled to benefits under this act shall be physically or
43 mentally incapable of receiving or acknowledging receipt of such benefits, the Trustees,

1 upon receipt of satisfactory evidence of such incapacity and that another person or
2 institution is maintaining such person entitled to benefits, and that no guardian or
3 committee has been appointed for him, may cause any benefits otherwise payable to him
4 to be made to such person or institution so maintaining him.

5 Sec. 28. The provisions of this act shall be administered on an equitable and
6 nondiscriminatory basis, it being the intent hereof that where the Trustees are given
7 discretionary powers, such powers shall be exercised in an equitable manner and so as to
8 prevent discrimination between persons similarly situated. All assets of the Association
9 shall be administered for the exclusive benefit of the members of the Association and
10 their beneficiaries, and as a fund to provide for such members or beneficiaries the
11 benefits provided in this act. It shall be impossible for any part of the principal or income
12 of the retirement fund of the Association to be used for or diverted to purposes other than
13 for the exclusive benefit of the members of the Association or their beneficiaries as
14 provided in this act; except that the Trustees may use such assets to pay the reasonable
15 expenses incurred in administering the said fund and any debts, liabilities or obligations
16 of said fund. The assets and income of the fund shall be exempt from all taxes, including
17 income taxes, imposed by the State of North Carolina or any political subdivision thereof.

18 Sec. 29. The fiscal year of the Association shall end on June 30 of each year.

19 Sec. 30. Throughout this act, use of the masculine pronoun shall include the
20 feminine.

21 Sec. 31. If any part or section of this act shall be declared unconstitutional or
22 invalid by the Supreme Court of North Carolina or any other court of last resort of
23 competent jurisdiction it shall in no wise affect the remainder of this act, and the
24 remainder shall remain in full force and effect.

25 Sec. 32. All the laws and clauses of laws in conflict with the provisions of this
26 act are hereby repealed."

27 Section 2. None of the provisions of this act shall create an additional liability
28 for the Winston-Salem Firemen's Fund Association unless sufficient funds are available
29 to pay fully for the liability.

30 Section 3. This act becomes effective July 1, 1998.