

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**HOUSE BILL 2223  
RATIFIED BILL**

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

The General Assembly of North Carolina enacts:

**SECTION 1.** Subdivision (9) of Section 2 of Chapter 926 of the 1947 Session Laws, as rewritten by Section 1 of Chapter 830 of the 1991 Session Laws, as amended by Chapter 171 of the 1995 Session Laws, Chapter 640 of the 1993 Session Laws, S.L. 1999-100, S.L. 2001-22, and S.L. 2002-43, 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, 2002, 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.

In addition to the other applicable limitations set forth in this Act, and notwithstanding any other provision of this Act to the contrary, for Plan Years beginning on or after January 1, 2002, the annual Compensation of each Member taken into account under the Act shall not exceed two hundred thousand dollars (\$200,000), the annual compensation limit under section 401(a)(17) of the Internal Revenue Code, as amended by section 611(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001. Annual compensation means compensation during the Plan Year or such other 12-month period over which Compensation is otherwise determined (the 'determination period'). If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. For purposes of determining benefit accruals in a plan year, beginning after December 31, 2001, the compensation limit for any prior determination period shall be two hundred thousand dollars (\$200,000). The two hundred thousand dollars (\$200,000) limit on annual compensation shall be

adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code."

**SECTION 2.** Section 13.1 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, S.L. 2001-22, and S.L. 2002-43, is amended by adding a new subsection to read:

"(c) In the event of a mandatory distribution greater than one thousand dollars (\$1,000) that is made without the Member's consent and is made to the Member before the Member attains the later of age 62 or Normal Retirement Age, if the Member does not elect to have such distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover or to receive the distribution from the Plan, the Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator."

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

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

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of July, 2006.

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Beverly E. Perdue  
President of the Senate

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James B. Black  
Speaker of the House of Representatives