

CHATTANOOGA FIRE
AND
POLICE DEPARTMENT

Pension Legislation

CHATTANOOGA, TENNESSEE



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PREFACE

This booklet contains the legislative authority for the Firemen's and Policemen's Insurance and Pension Fund of the City of Chattanooga, Tennessee. The Act creating this fund is Chapter 165, Private Acts of Tennessee, 1949. This Act, with all amendments, have been made thereto through the 1972 Legislative Session of the General Assembly of the State of Tennessee. The Private Acts are a part of the Charter of the City of Chattanooga, being sections 13.63-13.84.

The Charter of the City of Chattanooga, Tennessee and all acts heretofore passed by the General Assembly of the State of Tennessee amendatory thereof, be and the same are, hereby amended so as to authorize and require the board of commissioners of the said city to create a fund, in the manner hereinafter provided, to be known as the "firemen's and policemen's insurance and pension fund," which fund shall be for the benefit of the employees of the fire and police department of said city, and their beneficiaries, as provided by this Act. (Priv. Acts 1949, Ch. 165, § 1)

Sec. 13.64. [Appropriation to pension fund of percentage of salaries; control of fund; investments.]

The board of commissioners of said city, after it has adopted a budget for the salaries of the department of fire and police each year, shall add a sum to be fixed by a ma-

*Cross reference—For pension and death benefits for city employees generally, see § 3.29 et seq.

jority vote of the board of commissioners of said city, which shall not be less than ten per cent (10%) of each monthly payroll of those persons who are participants in the pension system, which sum so added shall be placed in the Firemen's and Policemen's Insurance and Pension Fund. Said pension and trust funds from all sources herein provided shall be paid to the trustee. The trustee shall be a national bank, under a suitable bond, designated, from time to time, as the trustee of this fund by the board of directors. The trustee shall hold said funds for the purposes stated in this act. The funds coming into the hands of the trustee shall be under the direction and control of the board of directors of the Firemen's and Policemen's Insurance and Pension Fund. Any and all investments made by said board of directors shall be passed upon and voted in writing by a majority of the members of said board without liability on their part whatsoever, or on the part of the trustee. (Priv. Acts 1949, Ch. 165, § 2; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.65. [Tax levy for pensions.]

The board of commissioners of said city be and is hereby required to levy a sufficient annual tax upon all taxable property and taxable privileges within the City of Chattanooga for the purposes of raising revenue for the payment of pensions to members of said department of fire and police and appropriate same for such purpose. (Priv. Acts 1949, Ch. 165, § 3)

Sec. 13.66. [Assessment of employees.]

Each and every employee of the department of fire and police, except those employees of the department who are not now contributing to the pension fund, shall be assessed a sum to be fixed by a majority vote of the board of directors of the firemen's and policemen's insurance and pension fund, which shall not be less than five per cent (5%) of his or her salary for the benefit of the firemen's and policemen's insurance pension fund. Said amount shall be deducted from pay and so shown on the payroll, and the total amount of deduction shall be made by the proper offi-

cial and placed in the firemen's and policemen's insurance and pension fund, and shall be kept by said trustee as part of the firemen's and policemen's insurance and pension fund as provided by section 2 of this Act [section 13.64 hereof], provided, that the deduction shall be made on the actual salary paid by the City of Chattanooga to regular firemen and policemen in the grade of private after any probationary period and that the words "basic salary" shall be understood to mean actual salary wherever used in this section. If the salary of the employee is less than the basic salary of a regular fireman or policeman the deduction shall be on the total salary. (Priv. Acts 1949, Ch. 165, § 4; Priv. Acts 1953, Ch. 90, § 1; Priv. Acts 1961, Ch. 222, § 1; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.67. [Sum to be collected, paid over to trustee when employee contribution deducted.]

An amount equal to the sum fixed by the board of commissioners, as provided in Section 2 of this Act [section 13.64 hereof], shall be collected by the tax collector and treasurer and paid over to said trustee each month when the contribution by the employees as provided in Section 4 [section 13.66 hereof] is deducted from the payroll. (Priv. Acts 1949, Ch. 165, § 7; Priv. Acts 1969, Ch. 82, § 6; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.68. [Proceeds from sale of unclaimed property to be placed in pension fund.]

If any personal property comes into the possession of the department of fire and police, if the owner cannot be found, or if no person shall claim such property after six (6) months, the property shall be sold, the net proceeds derived from the sale thereof shall be turned over to said trustee to be placed in said special firemen's and policemen's insurance and pension fund, as provided in sections 2 and 4 of this Act [sections 13.64 and 13.66 hereof]. (Priv. Acts 1949, Ch. 165, § 6)

Sec. 13.69. [Transfer of certain funds under prior Act.]

The sum of one hundred ten thousand five hundred forty-nine dollars and seventy-six cents (\$110,549.76) which now stands to the credit of the firemen's and policemen's insurance and pension fund on the books of the City of Chattanooga, as provided by chapter 509 of the Private Acts of Tennessee for 1935, be and the same is hereby appropriated to said firemen's and policemen's insurance and pension fund and the said City of Chattanooga is hereby directed to transfer to said fund the sum of one hundred ten thousand five hundred forty-nine dollars and seventy-six cents (\$110,549.76) to be used according to the provisions of this Act. (Priv. Acts 1949, Ch. 165, § 9)

Sec. 13.70. [Board of directors of pension fund—Created; membership; term of office; vacancies.]

There is hereby created a board to be known as the board of directors of the firemen's and policemen's insurance and pension fund, consisting of six (6) members, three (3) of which shall be from the fire department and three (3) from the police department. The present board of directors as elected under the provisions of section 7, chapter 509, of the Private Acts of Tennessee for the year 1935, shall continue in office until their respective terms expire. Each year after the passage of this Act on the first day of September there shall be held an election for the purpose of electing one member of said board from the fire department, and one from the police department, for a term of three (3) years.

Said election shall be held at each of the different firehalls and at police headquarters between the hours of 7:00 a.m. and 7:00 p.m. The votes shall be counted openly and publicly and the firemen and policemen receiving the highest number of votes shall be elected for a term of three (3) years. At no time shall more than one member of any one rank of the fire department be eligible to serve as a member of said board, and at no time shall more than one member of any one rank of the police department be eligible to serve as a member of said board. If a vacancy should occur in said board for any reason such vacancy shall be filled by the re-

maining members of said board for the unexpired term. In addition to the six (6) members hereinbefore provided for, the mayor, by virtue of his office, shall be a member of said board. (Priv. Acts 1949, Ch. 165, § 10; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.71. [Same—Organization; officers; compensation of secretary.]

As soon as may be following such election the board shall meet and organize. There shall be elected for a term of one year from the membership a president, vice-president and secretary, who shall respectively discharge the customary duties of such office. The secretary shall receive pay for his services, amount of such pay to be fixed by the board, commensurate with the amount of time and work required of him to fulfill his duties. (Priv. Acts 1949, Ch. 165, § 11)

Sec. 13.72. [Same—To hear and decide applications for pensions and benefits.]

The said board of directors shall hear and decide all applications for pensions and death benefits under this Act [chapter], and its decision on such applications shall be final and conclusive. (Priv. Acts 1949, Ch. 165, § 12)

Sec. 13.73. [Same—Supervision of retired, disabled, etc., employees.]

Upon organization of the board of directors, the board shall assume supervision of all members of the department of fire and police who have heretofore been placed on the existing pension roll, including the ones placed thereon as the result of a disability or injuries causing disability, and said board, on the advice of three (3) competent physicians, shall determine whether or not such members have again become able to perform their duties and are eligible for reinstatement. In the event the board of directors shall determine, on the advice of competent physicians, that an employee retired on disability is again able to work, then such employee shall be re-employed and placed on active duty. (Priv. Acts 1949, Ch. 165, § 14)

Sec. 13.74. [Benefits obtainable at certain ages or after certain length of service; death benefits; benefits upon re-employment and final termination.]

After an employee of the department of fire and police has served not less than twenty (20) years and becomes physically disabled, he may, at the discretion of the board of directors be retired on a full pension and paid a sum equal to fifty per cent (50%) of the basic salary of such employee at the time of the retirement. Any employee of the department of fire and police who has served not less than twenty (20) years and has reached the age of fifty-five (55) years may request and demand that he be retired on a pension and paid a sum equal to fifty per cent (50%) of his basic salary at the time of retirement. Any employee of twenty-five (25) years, regardless of his age at such time may request and demand that he be retired on a pension at a sum equal to fifty per cent (50%) of his basic salary at the time of retirement and such employee when such demand is made shall be placed upon the pension roll. After any employee of the department of fire and police has served not less than ten (10) years and becomes physically disabled and because of such disability is unable to discharge the duties required of him, and has been dropped from the payroll of the city, such employee may be retired on a partial pension at a sum equal to twenty-five per cent (25%) of his basic salary at the time of his retirement. If any employee of said department retires on disability after serving more than ten (10) years and less than twenty (20) years, his pension shall be increased over the twenty-five per cent (25%) for more than ten (10) years' service the sum of two and one-half per cent (2½%) for each additional year of service over ten (10) years and up to twenty (20) years' service. At the death, hereafter, of any employee of the department of fire and police, whether active or retired, who was or is a participant in the firemen's and policemen's insurance and pension fund, there shall be paid to his beneficiary or beneficiaries the sum of four thousand dollars (\$4,000.00).

Hereinafter, on the death of a retired fireman or retired policeman the widow of said retired fireman or retired policeman, shall hereafter receive fifty per cent (50%) of the

monies that said retired fireman or retired policeman has contributed to the pension fund while actively engaged as a fireman or policeman, provided, however, that payments received by said retired fireman or retired policeman after his retirement will be deducted from the fifty per cent (50%) the widow would be eligible for, provided, however, that the widow provides the pension board with legal certification of the death of said retired fireman or retired policeman, and this benefit will be paid within thirty (30) days after certification.

Upon re-employment by the city of any person who is receiving benefits under this or a former plan, such person shall be removed from the pension rolls and not be paid any benefit until such employment ceases when, at such time, he shall again be placed on the pension rolls and receive the benefit theretofore being paid or such greater benefit to which he may then be entitled by reason of participation hereunder during the period of such re-employment. (Priv. Acts 1949, Ch. 165, § 13; Priv. Acts 1963, Ch. 153, § 1; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.75. [Maximum pension benefits.]

The full amount of pension any employee shall be entitled to receive shall be three hundred seventy-five dollars (\$375.00) per month, or sixty per cent (60%) of the average monthly private's pay as computed over the highest three (3) years of pay during employee's years of service, whichever is greater. In computing the time served by an applicant for a pension, if such applicant has been employed in other departments of the City of Chattanooga, and has been employed as much as eight (8) years in the department of fire and police, such applicant shall be given credit for the time served in such other departments; provided, however, that such member shall pay into the pension fund the necessary amount to cover the years for which he is given credit, and if he fails to pay such amount into the fund he shall be treated as a new employee when he entered the fire and police department. If such employee has contributed to another pension fund, upon such employee transferring to the department of fire and police, the mu-

municipal pension fund to which he has contributed shall pay over to the Chattanooga firemen's and policemen's insurance and pension fund the total contribution by both the employee and the city to said other municipal pension fund, and the employee shall be entitled to credit for the time served in such other department represented by the contributions so transferred.

Notwithstanding any other provisions hereof, any participant, otherwise eligible for retirement, who elects to retire within ninety (90) days of the date on which this Act is approved by resolution of the Board of Commissioners of the City of Chattanooga, shall receive a pension of four hundred ten dollars (\$410.00) per month. (Priv. Acts 1949, Ch. 165, § 15; Priv. Acts 1953, Ch. 90, § 2; Priv. Acts 1961, Ch. 222, § 2; Priv. Acts 1963, Ch. 153, § 2; Priv. Acts 1967, Ch. 300, § 1; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1; Priv. Acts 1972, Ch. 407, § 1)

Sec. 13.76. [Pensions for employees disabled in discharge of duties.]

If any employee of the department of fire and police while engaged in the discharge of his duties shall receive injuries resulting in such employee becoming disabled from performing his duties, he shall be placed on a full pension and paid the amount heretofore provided, regardless of the length of time served; provided, however, that before such injured employee shall be retired on a pension the board of directors shall have the right to have him examined by competent physicians to determine whether or not such disabled employee is unable to discharge his regular or any other duty that may be required of him by officials of the department of fire and police; provided, further, that no disabled employee shall be retired on a pension because of injury until six (6) months after such injury was received. Any employee retired on a pension because of an injury, in event of recovery to the extent that he is again able to perform any duty required of him, shall be removed from the pension roll and reinstated in service. If such employee who has been placed upon the pension

roll refuses to allow himself to be examined by physicians selected by the board, the board shall have the right to suspend his pension until such time as he may permit an examination by the physicians selected by the board.

In the event any employee now contributing to the firemen's and policemen's insurance and pension fund dies after the passage of this amendment from any causes other than those service connected leaving a widow surviving, said widow shall receive one hundred dollars (\$100.00) per month so long as she remains his widow. A widow of a participant who was either (a) retired under this pension system, or (b) employed in the department at the time of this death, regardless of the date of his death, shall, hereafter, until her death or re-marriage, receive one hundred dollars (\$100.00) per month, provided that she is not receiving any other benefits under this pension system.

A widow of a participant who, after 1959, is killed, receives or has received injuries while engaged in the performance of his duties resulting in his death within six (6) months thereafter, shall receive the pension to which such deceased participant would have been entitled at the time of his death, had he then been eligible for retirement, until her death or re-marriage; if said participant is not survived by a widow but is survived by a child or children under eighteen (18) years of age, or if the widow of such deceased participant should thereafter die leaving a surviving child or children of the deceased participant under eighteen (18) years of age, each such child or children shall receive fifty dollars (\$50.00) per month until the age of eighteen (18) years is reached. Provided that the total amount payable to all of such children shall not exceed the maximum amount the deceased participant would have received as a pension; if such participant is not survived by a widow or child or children under eighteen (18) years of age but is survived by a mother solely dependent upon the deceased participant, the mother shall, so long as she has no other means of support, receive the same benefits which a widow would receive under this provision. (Priv. Acts 1949, Ch. 165, § 16; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.77. [Portion of employee's contributions to be returned when service of employee terminated for causes beyond his control or death where no benefits provided by law.]

If an employee of the department of fire and police participating in this pension fund shall cease to be employed for any reason, including death, and neither he nor his beneficiaries shall be entitled to any pension provided by law, then such employee or his beneficiaries, shall be entitled to receive from said fund one-half ($\frac{1}{2}$) of the amount of money which said employee has contributed to the firemen's and policemen's insurance and pension fund, provided, however, that such employee shall not be paid such money until after a period of ninety (90) days from said termination. Any such employee withdrawing monies from the pension fund pursuant to the provisions hereof shall not be eligible for reinstatement or rehiring in the department of fire and police as a policeman, fireman or detective after such money has been paid to him, either directly, or by transfer from another department of municipal government, until he shall have paid back into said pension fund the full amount received by him; provided, however, that, as to any employee of the department of fire and police employed as a policeman, fireman, or a detective, at the date of the passage of this Act, who has heretofore withdrawn monies from the pension fund under the authority of previous provisions of the Act, and who had not repaid said money to the pension fund prior to the passage hereof, such employees shall have ninety (90) days after the approval of this Act by the Board of Commissioners of the City of Chattanooga, within which to refund such monies to the pension fund. Should any such employee not refund such monies to the pension fund within the time allowed, such employee shall cease to be eligible for employment by the department of fire and police, and his employment shall thereupon cease and terminate. (Priv. Acts 1949, Ch. 165, § 17; Priv. Acts 1965, Ch. 161, § 1; Priv. Acts 1967, Ch. 298, § 1)

Sec. 13.78. [Benefits exempt from debts of employee, may not be garnished, etc.]

The insurance or pension fund, either before or after its distribution by the trustee to disabled or retired employees of said fire and police department, and their widows, or the beneficiary of any deceased employee, shall be exempt from the debts of such employee and shall not be subject to attachment, garnishment, execution or other legal process, but the same shall be received by such employee or beneficiary, free from debts, judgments and demands of such employee or beneficiary. (Priv. Acts 1949, Ch. 165, § 18)

Sec. 13.79. [Employees with minimum of twenty years' service not to lose benefits; exceptions.]

Any employee of the department of fire and police who has served not less than twenty (20) years shall not be deprived of his pension unless he be discharged for cause and on charges preferred in writing. Such employee shall upon request have a hearing by the board of commissioners. If such employee is dissatisfied with the action of said board he may file a petition for certiorari to any court of competent jurisdiction for hearing. (Priv. Acts 1949, Ch. 165, § 19)

Sec. 13.80. [Service required of new employees.]

All participants, regardless of when they were employed or became participants, shall be required to serve twenty-five (25) years before they are eligible for retirement, except as provided for in sections 13 and 16 [sections 13.74 and 13.76 hereof]. (Priv. Acts 1961, Ch. 222, § 3; Priv. Acts 1971, Ch. 149, § 1)

Sec. 13.81. [Records of retired employees to be kept by secretary.]

There shall be kept by the secretary of the said board a book to be known as the list of retired firemen and policemen, and their widows. This book shall give full and complete record of all pensions being paid at the time of the organization of the board of directors and of the action of the board

of directors in the future in retiring any and all persons under this Act. Such records shall give names, dates of employment in the department; date of retirement, and the reasons therefor as to all persons retired. All employees seeking retirement or pension for permanent disability shall make application to the board of directors on a form to be provided by the said board, which application shall be accompanied by proof of facts entitling retirement, or proper medical proof of disability; all applications and proofs shall be retained in the custody of the board of directors. Due notice of application shall be recorded by the secretary and the applicant shall be notified five (5) days in advance of the hearing by the board on his application. (Priv. Acts 1949, Ch. 165, § 22)

Sec. 13.82. [Designation of beneficiaries.]

Every employee of the department of fire and police having beneficiaries who, in the event of their death, may be entitled to any benefits of this Act shall file with the board the names of his beneficiaries in the order of their precedence, stating the relationship of each to said employee; provided, however, the failure to file the names required by this section shall not deprive the employee or his legal beneficiaries of any rights under this Act. (Priv. Acts 1949, Ch. 155, § 23)

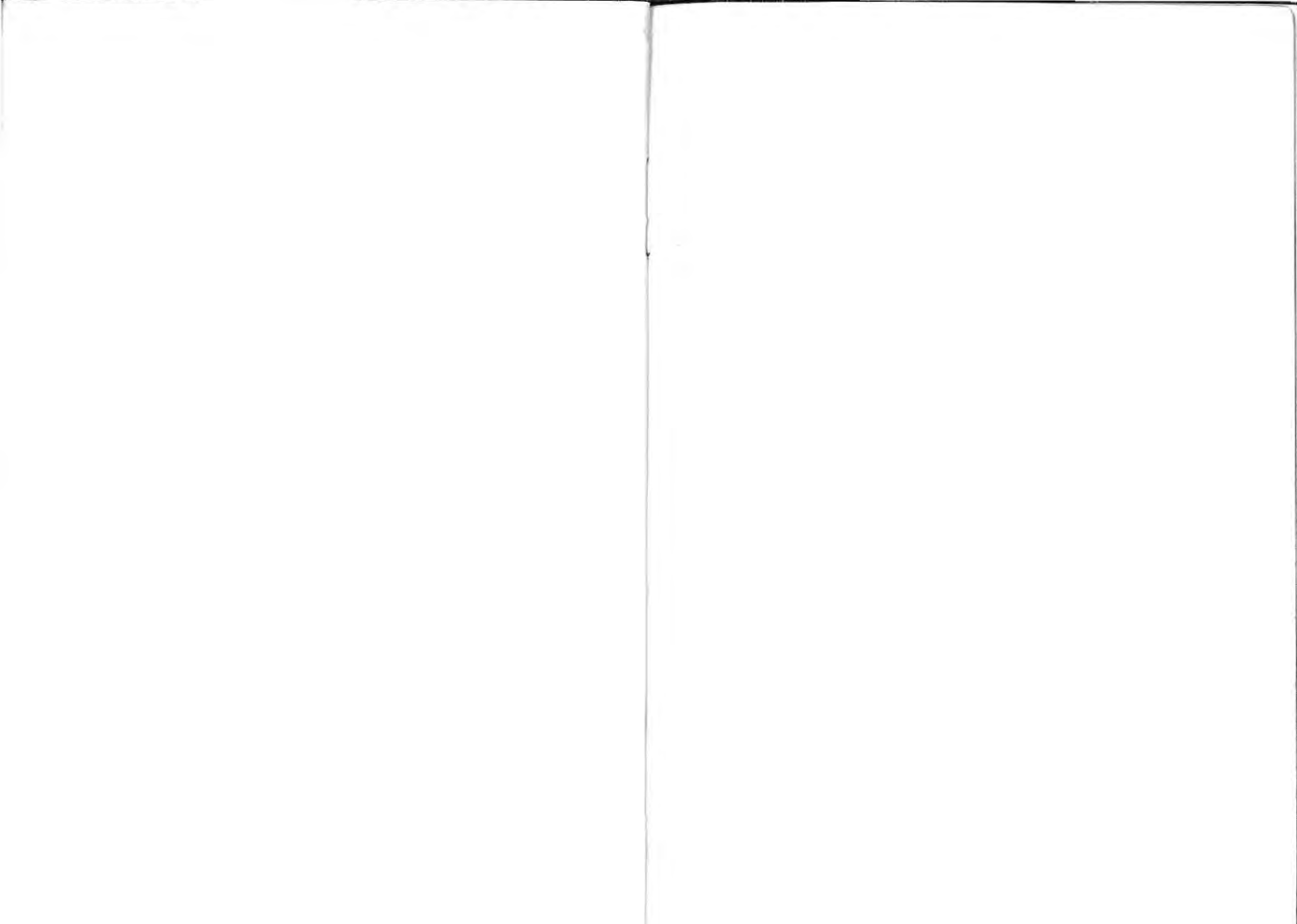
Sec. 13.83. [Inclusion of employees excluded by this Act.]

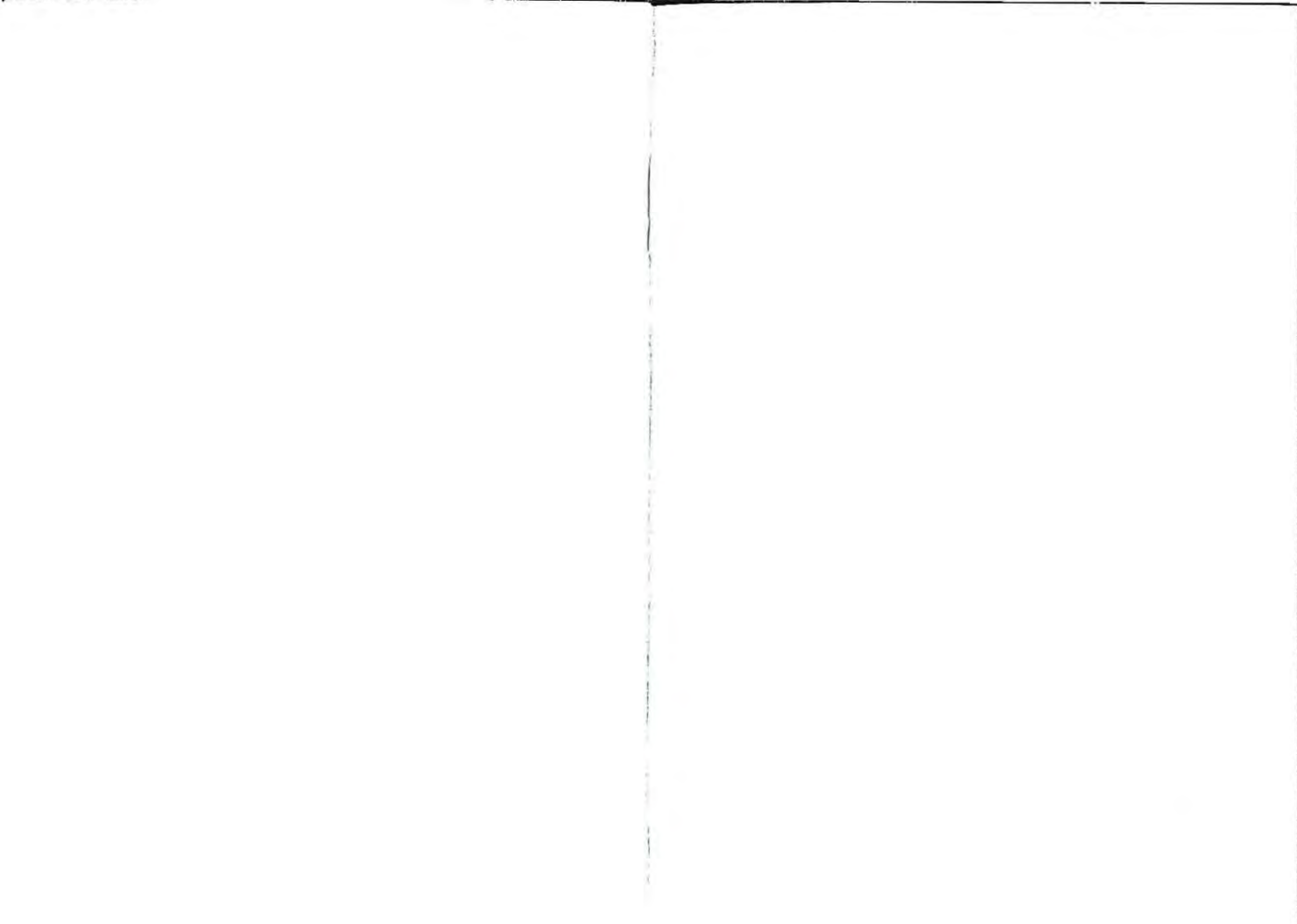
All employees of the department of fire and police who are not contributing to the insurance and pension fund and excluded from provisions of this Act, may if they so elect become members of the salaried employee's pension system of said city and have all the rights and benefits and subject to all the obligations imposed upon other members of said system. All persons hereafter employed to fill the positions now held by the employees excluded from the fireman's and policeman's insurance and pension fund shall become members of the salaried employee's pension system, all persons hereinafter employed in said department including safety-lane employees, to fill the positions now held. All per-

sons hereafter employed by the fire and police department except regular firemen and policemen shall become members of the salaried employee's pension system. (Priv. Acts 1961, Ch. 222, § 4)

Sec. 13.84. [City court costs for benefit of firemen's and policemen's insurance and pension fund.]

The sum of five dollars (\$5.00) [shall] be added as and in the nature of court cost to the cost incurred in the City Court of the City of Chattanooga on all forfeitures of fines or monies for or on conviction for violation of any city ordinances and that said increase in court cost for the City Court of the City of Chattanooga be collected by the clerk of said court and paid over to the treasurer of the City of Chattanooga who will account for said funds and pay same over to the trustees of the firemen's and policemen's insurance and pension fund together with all other monies properly collected for credit to said fund as herein before set out. (Priv. Acts 1969, Ch. 165, § 1)





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