

# FDNYCRA NEWSLETTER



## **PRESIDENT'S MESSAGE**

I want to thank everyone for attending our meeting in January in Murrells Inlet. A great turn out. Also I want to thank all those who attended Brother John Kopp's Funeral. John's wife Rachel was so thankful to all who helped and attended his final farewell. Especially Jim Schmid and Steve who organized the FDNY pall Bearers and honor guard at the viewing.

## **WEBSITE- E-MAIL- AND FACEBOOK**

We have a new Web Master and we are trying to revamp and update our website to make it more user friendly. [FDNYCRA.COM](http://FDNYCRA.COM) and Facebook FDNY CRA

## **DUES**

2019 Membership dues are now being collected. Your membership dues are the sole monetary support for this organization. For your convenience a membership renewal form is included in this Newsletter. Thank you in advance for your continued support.

## **FDNY-CRA COLOR GUARD**

Our Color Guard is looking for members to replace our thinning ranks. It was also decided that the Color Guard will revert to a more FDNY uniform, i.e. no red stripe on trousers and will wear the traditional FDNY Class A hat. Please contact Bob G. if interested.

## **MEETINGS**

General membership meetings will be held as every three months. We will try to have some "chew and brew" type lunch gatherings. The membership will be informed via Newsletter, Post Cards, Email, Phone calls, etc. of General Membership Meetings as they become scheduled. Our next meeting is April 18, 12 PM at American Legion Post 187, 225 E Holding Ave, Wake Forest, NC . Cards will be sent out with the address..

## 5-5-5-5

It is with our deepest sympathy that we announce Brother John Kopp has answered his last alarm. Our Color guard drove up to Cary, NC to be present at the Funeral. It is with deep regret that the Department announces the death of former Fire Commissioner, Charles Joseph Hynes, which occurred on January 29, 2019.

### **Retiree Benefits Can't Be Cut at 65, Judge Says**

By Albert B. Crenshaw Washington Post Staff Writer March 31, 2005; Page E06

A federal judge yesterday ruled that the Equal Employment Opportunity Commission may not exempt employers from a law barring them from cutting back medical insurance benefits for retirees when they become eligible for Medicare.

The ruling was a victory for AARP, which had sued the EEOC, arguing that the federal agency had exceeded its authority in seeking to exempt employers from applicable provisions of federal age-discrimination law.

The decision, which the EEOC said it will appeal, will accelerate the disappearance of employer-provided retiree medical insurance, the EEOC and employer groups say.

The case arose from a lawsuit brought in the late 1990s by retired employees of Erie County, Pa. The county provided health benefits to retirees until they reached 65, at which point they were expected to enroll in the federal Medicare program. The employees sued the county, claiming that the shift to Medicare gave them inferior benefits. The U.S. Court of Appeals for the 3rd Circuit in 2000 ruled in the retirees' favor, and the EEOC at first adopted that ruling as national policy. But the agency later concluded that the ruling, rather than preserving better benefits for retirees, was encouraging employers to eliminate them altogether.

In 2003, the agency adopted a proposed rule to exempt the coordination of retiree health benefits with Medicare from prohibitions under the Age Discrimination in Employment Act. AARP sued to block the rule change.

U.S. District Judge Ann B. Brody in Philadelphia ruled yesterday in AARP's favor, citing the 3rd Circuit Court's decision in the Erie case. Although "the EEOC argues persuasively that without [an] exemption [from ADEA] employers will reduce or eliminate health benefits for all retirees, no matter what their age," Brody wrote, the 3rd Circuit "has already ruled that allowing employers to give retirees 65 or older health benefits that are inferior to the health benefits given to retirees who are younger than 65 is illegal under ADEA."

Judge Brody concluded that under a 1984 Supreme Court decision, the EEOC's proposed exemption would be allowable only in a case in which the statute was either silent or ambiguous on the issue. In this case, the appeals court "has already determined that Congress expressed a clear and unambiguous intent with regard to the precise question at issue," she wrote in her ruling, which granted the AARP summary judgment and enjoined the EEOC from implementing the exemption.

In a statement, EEOC chairwoman Cari M. Dominguez called the decision a "misunderstanding of the EEOC's authority" that she said the agency is "confident that the [3rd Circuit] Court of Appeals will correct."

"The agency remains confident on both policy and legal bases in its authority to implement the rule," she said

## **\$12,000 CHRISTMAS BONUSES WEAKEN THE CITY'S PENSION FUNDS**

Christmas Bonuses for Uniformed Retirees Weaken the City's Pension Funds

CBC [silive]- 12/17/18

On December 15th, about 41,600 retired New York City police, fire, and correction officers will receive a \$12,000 check. This payment, known as the Variable Supplement Fund (VSF) payment and informally referred to as the "Christmas bonus," is made annually to eligible retirees in addition to their regular pension.

These payments will total approximately \$500 million in 2014. VSF payments are not only a benefit typically not available to retired officers in other jurisdictions, they also are a drain on the fiscal health of the pension funds. Police and fire personnel each have a separate pension fund; correction officers are part of a larger general city employee pension fund. VSF payments stem from an agreement made between union and City leaders in 1968. As City leaders sought to increase the investment return of the pension funds by diversifying their portfolios, union representatives on boards of the police and fire pension funds agreed to allow investments in equities on the condition that "excess" earnings (that is, those above certain target rates) would be used to provide a supplemental payment for retirees. The supplemental benefits were "variable" each year, determined entirely by the strength of investment earnings: in some years, retirees received a check and in others they did not. In 1993 the arrangement changed. The payments for police and fire retirees were converted to guaranteed fixed payments set to increase by \$500 each year until 2007, when they reached \$12,000. Payments for correction officers, which were established at a later date, continue to vary based on investment returns. Police and fire retirees who do not receive disability pensions are eligible for the benefit, and legislation approved in 2002 allows those who are eligible for retirement but choose to remain on the force to have the VSF payment "banked" for them until they retire. As of June 30, 2013, there were 41,603 VSF recipients.

Almost 70 percent, or 28,773, were retired police "superiors" – detectives, sergeants, lieutenants, and captains (41 percent) or police officers (28 percent).

Firefighters or fire officers comprised 13 percent. Fewer firefighters receive VSF payments because of the smaller size of the fire department and the high rate of disability pensions.

Approximately one-third of all fire retirees receive a VSF payment, compared to 62 percent of police retirees. Since most of the payments are now fixed, VSF payments have been funded like other pension benefits using actuarial standards to establish a balance required to meet future obligations. VSF balances are maintained with funds transferred from the regular pension funds. The amounts of the annual transfers are based on (1) the performance of the pension funds' equities portfolio and (2) the accrued value of VSF benefits. If the return on equities is higher than the 12-month average return on 10 year Treasury bond rates, then VSFs receive a transfer of the earnings; this transfer cannot provide for VSF asset balances that exceed the accrued value of benefits for each VSF. If equities' performance drops below the treasury benchmark, it triggers a "deficit" which needs to be made up in years when market performance is stronger; furthermore, any shortfall in resources to pay benefits must be covered by the City's pension funds.

For more than a decade, VSFs had ample resources to pay benefits without transfers from the pension funds. VSF assets began to decline in 2007, as the stock market faltered, VSF benefits reached \$12,000 per retiree, and the number of recipients grew steadily. In fiscal

year 2013, the VSF for police superiors experienced a shortfall requiring an \$8.2 million transfer from the police pension fund to pay beneficiaries. More importantly, the exceptional investment returns of the City's pension funds in fiscal year 2014 led to a \$2.9 billion transfer from the pension funds to the VSFs, which increased their net assets from \$989 million to \$3,540 million. The transfers made up for "deficits" from prior years. The transfers diminish investment returns and reduce the assets of the pension funds. In fiscal year 2014, the pension system (all five funds) earned a combined return of 17.5 percent, or \$26.3 billion, on its \$150.3 billion investments. The transfer effectively drops the investment earnings to \$23.4 billion, or a 15.6 percent return. It is particularly significant in the case of the police pension fund, which transferred \$2.5 billion to the police officers' and police superiors' VSFs almost half of the police pension funds investment earnings in fiscal year 2014.

The underfunding of the City's pension liabilities makes the transfers particularly worrisome. The City's five pension funds range from a funded ratio of 63 percent for the fire pension fund to 75 percent for the city employees retirement system.

The City has a plan to fully fund its pension system over the next 20 years; asset transfers for VSFs undermine the pace at which the City can implement that plan and require City taxpayers to make up the difference to keep to schedule. This pressure is most acute when the pension funds experience investment losses, as they did in 2001, 2002, 2008, and 2009, that require large additional pension contributions from the City's operating budget. Pension contributions are \$8.6 billion and 11.3 percent of the fiscal year 2015 budget; strong investment returns are necessary to limit further growth in the City's contributions.

Unlike regular pension benefits, VSF payments are not constitutionally protected. Since they are managed as separate fiduciary funds and are not considered a part of the pension system, they can be reduced, mitigated or eliminated by the State Legislature. Phasing out or eliminating the VSF should be part of the Mayor and City Council's agenda in Albany next year. Gradually eliminating these unusual pension bonuses for retirees would enhance the fiscal condition of the pension funds and reduce the needed contributions from taxpayers.

Posted by John Gillenny

## **Firefighter in harassment suit threatened to kill fellow Bravest 3 times: court records**

By Susan Edelman NY Post January 12, 2019



A Muslim firefighter who collected \$224,000 in a settlement from the city for alleged harassment including being fed pork by fellow Bravest threatened to "kill everyone in the firehouse" three times, new court records allege. As previously reported, Raheem

Hassan, 31, first made the threat on Dec. 20, 2017 to his then-supervisor, Lt. David Hughes, authorities say. But Hughes did not call the cops. Instead, he alerted the FDNY's Counseling Services Unit, according to papers filed by his lawyer.

"I don't want him arrested. He needs psychological help," Hughes insisted, according to his lawyer, Steven Rabinowitz. Hassan "repeated the threat" to a counselor, the papers state. The counselor informed an FDNY Fire Marshal, who called the NYPD. Hassan "then said it again to the police," Rabinowitz states. A cop called Hughes, who related what Hassan had told him.

Hassan was charged with misdemeanor aggravated harassment, but the Staten Island District Attorney granted him a deal in which the charge was dismissed in six months. In a federal lawsuit, Hassan accused fellow firefighters at Engine 309/Ladder 159 in Flatlands of cooking his food with pork and bacon grease against his religious dietary rules. He also claimed they took photos of their genitals next to his face while he slept. Hughes, accused by Hassan of falsely reporting the death threat, agreed to pay \$1,000 to settle the case, but admitted no wrongdoing.

Hassan's lawyer, Aymen Aboushi, said "my client never threatened to kill anyone and that false claim was perpetrated by others trying to cover up wrongdoing."

Meanwhile, Hughes had filed a suit in state court to fight the city's refusal to defend him in the federal case.

"Lt. Hughes did absolutely nothing wrong and acted properly," said Jake Lemonda, president of the Uniformed Fire Officers Association. On Jan. 2, Manhattan Supreme Court Justice Arthur Engoron agreed, finding no evidence that Hughes had violated FDNY rules or was negligent, and ruled the city wrongly denied him legal representation. The city will fight the decision. "We stand by our representation decision and intend to challenge the ruling," said Law Department spokesman Nicholas Paolucci.

## **Social Security Check Rise Biggest in 7 years**

The second week of October is when the Bureau of Labor Statistics releases September's inflation data, which is the final piece of the puzzle needed to calculate COLA. Thanks to robust increases in crude oil prices at the pump, along with healthy shelter inflation (e.g. Rising rents) Social Security beneficiaries received 2.8% raise in 2019. Which is the largest since 2012. The COLA that seniors are receiving isn't sufficient to cover the inflation for us seniors.

A 2018 analysis from the Senior Citizens League found that the purchasing power of Social Security dollars had declined by 34% since the year 2000. In effect, Social Security has an inflation problem with no easy solution.

**Our next meeting is on April 18, 12pm at American Legion Post 187, 225 E Holding Ave. Wake Forest, N.C.**

**FDNY – CAROLINAS RETIREES ASSOCIATION**

**P.O. Box 15589**

**Surfside Beach, SC 29587**

**Website: [fdnycra.com](http://fdnycra.com)**

**email: [rickgimbl@gmail.com](mailto:rickgimbl@gmail.com)**

**MEMBERSHIP APPLICATION/RENEWAL YEAR 2019**

**It is important to fill the renewal Application out.. Please enter on indicated line and return entire form with payment.**

**Check One      New Member       Renewal**

**Membership Dues:            \$25.00 per year**

**YES**     **NO** **Permission to have name on Website**

**NAME: \_\_\_\_\_ RANK \_\_\_\_\_**

**SPOUSE NAME: \_\_\_\_\_**

**ADDRESS: \_\_\_\_\_**

\_\_\_\_\_

**TELEPHONE NO: \_\_\_\_\_**

**EMAIL ADDRESS: \_\_\_\_\_**

**UNIT RETIRED FROM: \_\_\_\_\_ DATE: \_\_\_\_\_**

**HEALTH PLAN: \_\_\_\_\_**

**Comments**

\_\_\_\_\_

\_\_\_\_\_

**Return To: Carolinas Retiree Association  
PO Box 15589  
Surfside Beach SC 29587**

Office Use only

Date Pd \_\_\_\_\_

Ck No. \_\_\_\_\_

Recorded

