

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 515  
HOUSE BILL 481

1 AN ACT TO AMEND CHAPTER 128 OF THE GENERAL STATUTES RELATING TO  
2 THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT  
3 SYSTEM.  
4

5 The General Assembly of North Carolina do enact:  
6

7 **Section 1.** G.S. 128-24, Subsection 4, is hereby amended by rewriting all of  
8 paragraph "a" thereof to read as follows:

9 "a. Notwithstanding any other provision of this Chapter, any member  
10 who separates from service prior to the time he shall have attained  
11 the age of sixty years, or if a uniformed policeman or fireman prior to  
12 the time he shall have attained the age of fifty-five years, for any  
13 reason other than death or retirement for disability as provided in  
14 G.S. 128-27, Subsection (c), after completing twenty or more years  
15 of creditable service, and who leaves his total accumulated  
16 contributions in the Retirement System, shall have the right to retire  
17 on a deferred retirement allowance upon the date he shall have  
18 attained the age of sixty years, or if a uniformed policeman or  
19 fireman upon the date he shall have attained the age of fifty-five  
20 years; provided that such member may retire only upon written  
21 application to the board of trustees setting forth at what time, not less  
22 than thirty days nor more than ninety days next following the date of  
23 filing such application, he desires to be retired. Such deferred  
24 retirement allowance shall be computed in accordance with the  
25 provisions of G.S. 128-27, Subsection (b), paragraphs (1), (2) and  
26 (3)."

27 **Sec. 2.** (a) Subdivision (2) of Subsection (d) of G.S. 128-27 is hereby amended by  
28 striking out the word "sixty" in lines 2 and 3 and inserting in each place in lieu thereof the word  
29 "sixty-five".

30 (b) Subsection (f) of G.S. 128-27, as the same appears in the 1959 Supplement  
31 to the General Statutes, is hereby amended by rewriting the last sentence to read as follows:

32 "Notwithstanding any other provision of Chapter 128, there shall be deducted from any  
33 amount otherwise payable hereunder any amount due any participating employer by the  
34 member by reason of any outstanding overpayment of salary or by reason of the embezzlement  
35 of fees collected by the member for any participating employer; provided that, notwithstanding  
36 any other provisions of this Chapter, even if the member fails to demand the return of his  
37 accumulated contributions within ninety days from the day he ceases to be an employee, any  
38 amount due such participating employer by reason of any outstanding overpayment of salary or  
39 embezzlement of fees shall be paid to such participating employer upon demand; provided,  
40 further, that such participating employer shall have notified the executive secretary of any  
41 amount so due and that the Retirement System shall have no liability for amounts so deducted  
42 and transmitted to such participating employer nor for any failure by the Retirement System for  
43 any reason to make such deductions."

1 (c) G.S. 128-27 is hereby amended by adding a new subsection at the end  
2 thereof, to be designated as Subsection (i), and to read as follows:

3 "(i) No action shall be commenced against the State or the Retirement System by any  
4 retired member or beneficiary respecting any deficiency in the payment of benefits more than  
5 three years after such deficient payment was made, and no action shall be commenced by the  
6 State or the Retirement System against any retired member or former member or beneficiary  
7 respecting any overpayment of benefits or contributions more than three years after such  
8 overpayment was made."

9 **Sec. 3.** G.S. 128-28 is hereby amended by rewriting Subsection (c) thereof to read  
10 as follows:

11 "(c) Members of Board. The board shall consist of the board of trustees of the teachers'  
12 and State employees' Retirement System, and two local governmental officials designated by  
13 the Governor. One local governmental official shall be a mayor, a member of the governing  
14 body, or a full-time officer of a city or town participating in the Retirement System, and one  
15 local governmental official shall be a county commissioner or a full-time officer of a county  
16 participating in the Retirement System. The Governor shall designate these two local  
17 governmental officials on April 1 of years in which an election is held for the office of  
18 Governor, or as soon thereafter as possible, and the two local governmental officials designated  
19 by the Governor shall serve on the board in addition to the regular duties of their city, town, or  
20 county office: Provided that if for any reason any local governmental official so designated  
21 vacates the city, town, or county office which he held at the time of this designation, the  
22 Governor shall designate some other local governmental official to serve until the next regular  
23 date for the designation of local governmental officials to serve on the board."

24 **Sec. 4.** Subsection (e) of G.S. 128-28 is hereby amended by striking out the period  
25 at the end, inserting a colon in lieu thereof, and adding the following:

26 "Provided, that where a local governmental official designated by the Governor has taken  
27 an oath of office in connection with the local governmental office that he holds, the oath for his  
28 local governmental office shall be deemed to be sufficient, and he shall not be required to take  
29 the oath hereinabove provided."

30 **Sec. 5.** The paragraph designated as "(2)" of G.S. 128-21, as the same appears in  
31 the 1959 Cumulative Supplement to the General Statutes, is hereby amended by adding  
32 immediately after the word "health" in the last line the following words:

33 "any other separate, local governmental entity".

34 **Sec. 6.** Subsection (f) of G.S. 128-27, as the same appears in the 1959 Cumulative  
35 Supplement to the General Statutes, is hereby amended by striking out the period at the end of  
36 the first sentence, inserting a semicolon in lieu thereof, and adding the following words:

37 "Provided that, if the member at the time of separation from service shall have attained the  
38 age of sixty years or is otherwise entitled to a retirement allowance under this Chapter, he shall  
39 be paid the amount of his accumulated contributions plus the full amount of his accumulated  
40 regular interest thereon."

41 **Sec. 7.** Subdivision (3) of Subsection (d) of G.S. 128-27 and all other laws and  
42 clauses of laws in conflict with this Act are hereby repealed.

43 **Sec. 8.** This Act shall become effective upon its ratification.

44 In the General Assembly read three times and ratified, this the 26th day of May,  
45 1961.