

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 516
HOUSE BILL 482

1 AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES RELATING TO
2 THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND SOCIAL
3 SECURITY REFERENDUMS.
4

5 The General Assembly of North Carolina do enact:
6

7 **Section 1.** General Statutes 135-3 is hereby amended by adding the following at the
8 end of Subsection (1) thereof:

9 "Provided, that every person who is employed by the State as a State highway patrolman or
10 other law enforcement officer as defined in G.S. 143-166(m) shall automatically become a
11 member of the Teachers' and State Employees' Retirement System unless such person shall,
12 within fifteen days after his employment, become a member of the Law Enforcement Officers'
13 Benefit and Retirement Fund, in which event such person shall not be entitled to membership in
14 the Teachers' and State Employees' Retirement System; provided, that any such State employee
15 who joins said fund and is later transferred to a position other than one described in
16 G.S. 143-166(m) shall be enrolled in the Teachers' and State Employees' Retirement System
17 and in addition thereto be entitled to transfer to this Retirement System his contributions in
18 lump sum and credits for membership and prior service standing to his credit in the Law
19 Enforcement Officers' Benefit and Retirement Fund. Upon request for transfer of such credits,
20 the State's employer contributions shall also be paid to the Teachers' and State Employees'
21 Retirement System by the Executive Secretary of the Law Enforcement Officers' Benefit and
22 Retirement Fund. This right shall apply retroactively in the case of any member who heretofore
23 has transferred to non-law enforcement duties. Under such rules and regulations as the board of
24 trustees may establish and promulgate, Co-operative Agricultural Extension Service employees
25 may, in the discretion of the governing authority of a county, become members of the Teachers'
26 and State Employees' Retirement System to the extent of that part of their compensation
27 derived from a county."

28 **Sec. 2.** G.S. 135-3 is hereby amended by rewriting all of paragraph "a" of
29 Subdivision (7) of the Section to read as follows:

30 "a. Notwithstanding any other provision of this Chapter, any member
31 who separates from service prior to the attainment of the age of 60
32 years for any reason other than death or retirement for disability as
33 provided in G.S. 135-5, Subsection (d), after completing 20 or more
34 years of creditable service, and who leaves his total accumulated
35 contributions in said system shall have the right to retire on a
36 deferred retirement allowance upon attaining the age of 60 years:
37 Provided, that such member may retire only upon written application
38 to the board of trustees setting forth at what time, not less than 30
39 days nor more than 90 days subsequent to the execution and filing
40 thereof, he desires to be retired. Such deferred retirement allowance
41 shall be computed in accordance with the provisions of G.S. 135-5,
42 Subsection (b), Subdivisions (1), (2) and (3)."

1 **Sec. 3.** G.S. 135-4(f), as the same appears in the 1959 Supplement to the General
2 Statutes, is hereby amended by striking out the word and figures "February 17th, 1941" in line
3 eight and inserting in lieu thereof the word and figures "September 16th, 1940", and by
4 rewriting the fourth sentence thereof to read as follows:

5 "Under such rules as the board of trustees shall adopt; credit will be provided by the
6 Retirement System with respect to each such teacher or other State employee in the amounts
7 that he would have been paid during such service in such armed services on the basis of his
8 earnable compensation when such service commenced."

9 **Sec. 4.** (a) G.S. 135-5(f), as the same appears in the 1959 Supplement to the
10 General Statutes, is hereby amended by inserting the following sentence immediately following
11 the first sentence, as follows:

12 "Provided that, if the member at the time of separation from service shall have attained the
13 age of 60 years or is otherwise entitled to a retirement allowance under this Chapter, he shall be
14 paid the amount of his accumulated contributions plus the full amount of his accumulated
15 regular interest thereon."

16 (b) G.S. 135-5(f), as the same appears in the 1959 Supplement to the General
17 Statutes, is hereby further amended by rewriting the last sentence to read as follows:

18 "Notwithstanding any other provision of Chapter 135, there shall be deducted from any
19 amount otherwise payable hereunder any amount due any agency or subdivision of the State by
20 the member by reason of any outstanding overpayment of salary or by reason of the
21 embezzlement of fees collected by the member for any agency or subdivision of the State;
22 provided that, notwithstanding any other provisions of this Chapter, even if the member fails to
23 demand the return of his accumulated contributions within 90 days from the day he ceases to be
24 a teacher or State employee, any amount due such agency or subdivision by reason of any
25 outstanding overpayment of salary or embezzlement of fees shall be paid to such agency or
26 subdivision by the Retirement System upon demand; provided, further, that such agency or
27 subdivision shall have notified the executive secretary of any amount so due and that the
28 Retirement System shall have no liability for amounts so deducted and transmitted to such
29 agency or subdivision nor for any failure by the Retirement System for any reason to make
30 such deductions."

31 (c) G.S. 135-5 is hereby amended by adding a new subsection at the end thereof,
32 to be designated as Subsection (1), and to read as follows:

33 "(1) No action shall be commenced against the State or the Retirement System by any
34 retired member or beneficiary respecting any deficiency in the payment of benefits more than
35 three years after such deficient payment was made, and no action shall be commenced by the
36 State or the Retirement System against any retired member or former member or beneficiary
37 respecting any overpayment of benefits or contributions more than three years after such
38 overpayment was made."

39 **Sec. 5.** G.S. 135-27 is hereby amended by adding a new subsection at the end
40 thereof, to be designated as Subsection (d), and to read as follows:

41 "(d) The governing board of any association or organization listed in Subsection (a), in
42 its discretion, may elect, by an appropriate resolution of said board, to cause the employees of
43 such association or organization to become members of the Teachers' and State Employees'
44 Retirement System. Such Retirement System coverage shall be conditioned on such
45 association's or organization's paying all of the employer's contributions or matching funds
46 from funds of the association or organization and on such board's collecting from its employees
47 the employee's contributions at such rates as may be fixed by law and by the regulations of the
48 board of trustees of the Retirement System, all of such funds to be paid to the Retirement
49 System and placed in the appropriate funds. Retroactive coverage of the employees of any such
50 association or organization may also be affected to the extent that such board requests;
51 provided, the association or organization shall pay all of the employer's contributions or

1 matching funds necessary for such purposes; and, provided further, such association or
2 organization shall collect from its employees all employees' contributions necessary for such
3 purpose, computed at such rates and in such amount as the board of trustees of the Retirement
4 System shall determine, all of such funds to be paid to the Retirement System, together with
5 such interest as may be due, and placed in the appropriate funds."

6 **Sec. 6.** (a) G.S. 135-28 is hereby amended by rewriting Subsection (a) thereof to
7 read as follows:

8 "(a) Any member whose services as a teacher or State employee are terminated for any
9 reason other than retirement or death, who becomes employed by an employer participating in
10 the North Carolina Local Governmental Employees' Retirement System or an employer which
11 brings its employees into participation in said system within five years after such teacher or
12 State employee has ceased to be a teacher or State employee, may elect to leave his total
13 accumulated contributions in the Teachers' and State Employees' Retirement System during the
14 period he is in the employment of such employer provided he files notice thereof in writing
15 with the board of trustees of the Teachers' and State Employees' Retirement System within five
16 years of separation from service as a teacher or State employee. This subsection shall be
17 effective retroactively as well as prospectively.

18 (b) G.S. 135-28 is hereby further amended by striking out the period at the end
19 of Subsection (b), inserting a colon in lieu thereof, and adding the following:

20 "Provided, however, that in lieu of transfer of funds from one Retirement System to
21 another, such member who is eligible for retirement benefits shall file application therefor with
22 each Retirement System to the end that each Retirement System shall pay appropriate benefits
23 without transfer of funds between the systems."

24 **Sec. 7.** Subsection (c) of G.S. 135-18.1 is hereby amended by striking out the
25 figures "60" in the third line from the end and inserting in lieu thereof the figures "65".

26 **Sec. 8.** Subsection (b) of G.S. 135-29 is hereby amended by inserting in the next to
27 the last line immediately following the word "Governor the words "or such State official as
28 may be designated by him,".

29 **Sec. 9.** G.S. 135-3.1 and G.S. 135-3.2 and all other laws and clauses of laws in
30 conflict with this Act are hereby repealed.

31 **Sec. 10.** This Act shall become effective upon its ratification.

32 In the General Assembly read three times and ratified, this the 26th day of May,
33 1961.