

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 783
SENATE BILL 695

AN ACT TO PROVIDE FOR THE INTERCHANGE OF GOVERNMENTAL EMPLOYEES
TO BE KNOWN AS THE NORTH CAROLINA INTERCHANGE OF
GOVERNMENTAL EMPLOYEES ACT OF 1977.

Whereas, the General Assembly of North Carolina recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this State and that the interchange of personnel among governmental agencies and all levels of governments is significant in achieving an improvement in the quality of management; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 126 of the General Statutes of North Carolina is hereby amended by adding a new Article 10 thereto to read as follows:

"ARTICLE 10.

"Interchange of Governmental Employees.

"§ 126-50. **Short title.** — This Article shall be known and may be cited as the 'North Carolina Interchange of Governmental Employees Act of 1977'.

"§ 126-51. **Definitions.** — For purposes of this Article:

- (1) 'Sending agency' means any division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government which, under this Article, sends any employee thereof to another governmental division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government.
- (2) 'Receiving agency' means any division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government which, under this Article, receives an employee of another governmental division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government.
- (3) 'Assigned employee' means an employee of a sending agency who is assigned or detailed to a receiving agency as part of the employee's regular duties with the sending agency.
- (4) 'Employee on leave' means an employee on leave of absence without pay from a sending agency who becomes an employee of a receiving agency while on leave from the sending agency.

"§ 126-52. **Authority to interchange employees.** — (a) Any division, department, agency, instrumentality, authority, or political subdivision of the State of North Carolina is authorized to participate in a program of interchange of employees with divisions, departments, agencies, instrumentalities, authorities, or political subdivisions of the federal government, of another state, or of this State, as a sending agency or a receiving agency.

(b) The period of individual assignment, detail, or leave of absence under an interchange program shall not exceed two years.

(c) The temporary assignment of the employee may be terminated by mutual agreement between the sending agency and the receiving agency.

(d) Elected officials may not participate in a program of interchange under this Article.

"§ 126-53. Status of employees of sending agency. — (a) Employees of a sending agency participating in an exchange of personnel authorized by G.S. 126-52 may be considered during such participation to be either assigned employees or employees on leave.

(b) Assigned employees shall be entitled to the same salary and employment benefits to which they would be entitled as employees of the sending agency and shall remain employees of the sending agency for all purposes unless otherwise provided in this Article or in a written agreement between the sending agency and the receiving agency.

(c) Employees on leave shall have the same rights, benefits and obligations as other State or local employees subject to this Chapter who are granted leaves of absences, unless otherwise provided in this Article, or in a written agreement between the sending agency and the receiving agency.

(d) When a division, department, agency, instrumentality, authority or political subdivision of the State of North Carolina acts as a sending agency, employees participating in an exchange of personnel authorized by G.S. 126-52, whether considered assigned employees or employees on leave, shall have the same rights, benefits and obligations to participate in and receive benefits, including death benefits, from any retirement system of which they are members as employees of the sending agency, whether they are members of the Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, or other retirement system which has been or may be established by the State for public employees; provided, however, that the receiving agency agrees to and makes the employer contributions and deducts from the salary of the employee the employee contributions for continued membership in such retirement system. Provided, further, that if no contributions are paid into the appropriate retirement system during the period that the employee participates in the exchange of personnel authorized by this Article, such employee shall remain entitled to death benefits resulting from his death during the period of the exchange. Provided, that where duplicate benefits would otherwise be payable on account of disability or death, the employee or his estate shall elect, within one year of the date of disability or death, which benefits to receive.

"§ 126-54. Travel expenses of employees from this State. — A sending agency in this State shall not pay the travel expenses of its assigned or on leave employees and shall not pay the travel expenses of such employees incurred in the course of performing work for the receiving agency. Such expenses shall be borne by the receiving agency.

"§ 126-55. Status of employees of other governments. — (a) When a division, department, agency, instrumentality, authority or political subdivision of the State of North Carolina acts as a receiving agency, assigned employees of the sending agency remain the employees of the sending agency and continue to receive the employment benefits of the sending agency unless otherwise specified in a written agreement between the sending agency and the receiving agency.

(b) When a division, department, agency, instrumentality, authority or political subdivision of this State acts as a receiving agency, employees on leave from the sending agency will receive appointments as employees with the receiving agency and will be entitled to the same employment benefits as other employees of the receiving agency unless otherwise specified in a written agreement between the sending agency and the receiving agency. Such appointments may be made without regard to any rules or regulations of the receiving agency

regarding the selection of employees; but all rules of the State Personnel Act shall apply to State employees.

"§ 126-56. Travel expenses of employees of other governments. — A receiving agency in the State of North Carolina may, in accordance with its travel regulations and travel regulations by law, pay the travel expenses incurred in the course of an assigned employee's duties or incurred in the course of the duties of an employee on leave with the receiving agency on the same basis as the travel expenses of regular employees are paid.

"§ 126-57. Administration. — The State Personnel Commission and any State division, department, agency, instrumentality, authority or political subdivision participating in an interchange of employees program may promulgate rules or regulations necessary for the administration of such program, so long as such rules or regulations do not conflict with the provisions of this Article or any other provision of law."

Sec. 2. Chapter 128 of the General Statutes is hereby amended by adding a new subdivision 6 to Section 128-24, to read as follows:

"(6) Employees of a sending agency participating in an intergovernmental exchange of personnel under the provisions of Article 10 of Chapter 126 shall remain members entitled to all benefits of the system provided that the requirements of Article 10 of Chapter 126 are met; provided further, that a member may retain membership status while serving as an assigned employee or employee on leave under the provisions of Article 10 of Chapter 126 for purposes of receiving the death benefit regardless of whether he and his employer are contributing to his account during the exchange period except that no duplicate benefits shall be paid."

Sec. 3. Chapter 135 of the General Statutes is hereby amended by adding to Section 135-3 a new subdivision (9) to read as follows:

"(9) Members who are participating in an intergovernmental exchange of personnel under the provisions of Article 10 of Chapter 126 may retain their membership status and receive all benefits provided by this Chapter during the period of the exchange provided the requirements of Article 10 of Chapter 126 are met; provided further, that a member participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 shall, notwithstanding whether he and his employer are making contributions to the member's account during the exchange period, be entitled to the death benefit if he otherwise qualifies under the provisions of this Article and provided further that no duplicate benefits shall be paid."

Sec. 4. Article 12 of Chapter 143 of the General Statutes is hereby amended by adding to subsection 143-166(m) a new sentence, to follow the sentence ending "civil processes." and to read as follows: "The term law enforcement officers, for purposes of participating in this fund and for receiving benefits under this section, includes otherwise qualified persons who are members of the fund and who are participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 provided the requirements of Article 10 of Chapter 126 are met; provided further, that a member participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 shall be entitled to any death benefits to which he would otherwise be entitled regardless of whether he and his employers are making contributions to the member's account during the exchange period except that no duplicate benefits shall be paid."

Sec. 5. Severability. In the event any section, subsection, sentence, clause or phrase of this act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this act, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June,
1977.