

§ 135-6. Administration.

(a) Administration by Board of Trustees; Corporate Name; Rights and Powers; Tax Exemption. – The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of the Chapter are vested in a Board of Trustees.

The Board of Trustees is a body politic and corporate under the name Board of Trustees Teachers' and State Employees' Retirement System. As a body politic and corporate, it has the right to sue and be sued, has perpetual succession, shall have a common seal, in its corporate name may take, demand, receive, and possess all kinds of real and personal property necessary and proper for its corporate purposes, and may bargain, sell, grant, transfer, or dispose of all real and personal property lawfully acquired by it. All property owned or acquired by it is exempt from all taxes imposed by the State or any political subdivision thereof and is not subject to income taxes.

(b) Membership of Board; Terms. – The Board shall consist of the following 13 members:

- (1) The State Treasurer, ex officio.
- (2) The Superintendent of Public Instruction, ex officio.
- (2a) The Director of the Office of State Human Resources, ex officio.
- (3) Eight members to be appointed by the Governor and confirmed by the Senate of North Carolina. One of the appointive members shall be a member of the teaching profession of the State; one of the appointive members shall be a retired teacher who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one shall be a retired State employee who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1977, and quadrennially thereafter; one to be a general State employee, and two who are not members of the teaching profession or State employees; two to be appointed for a term of two years, two for a term of three years and one for a term of four years; one appointive member shall be a law-enforcement officer employed by the State, appointed by the Governor, for a term of four years commencing April 1, 1985. One member shall be an active or retired member of the North Carolina National Guard appointed by the Governor for a term of four years commencing July 1, 2013. At the expiration of these terms of office the appointment shall be for a term of four years.
- (4) Two members appointed by the General Assembly, one appointed upon the recommendation of the Speaker of the House of Representatives, and one appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Neither of these members shall be an active or retired teacher or State employee or an employee of a unit of local government. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(c) Compensation of Trustees. – The trustees shall be paid during sessions of the Board at the prevailing rate established for members of State boards and commissions, and they shall be reimbursed for all necessary expenses that they incur through service on the Board.

(d) Oath. – Each trustee other than the ex officio members shall, within 10 days after appointment, take an oath of office, to, so far as it devolves upon the trustee, diligently and honestly administer the affairs of the Board and to not knowingly violate or willingly permit to be

violated any of the provisions of law applicable to the Retirement System. The oath shall be subscribed to by the trustee making it, certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(e) Voting Rights. – Each trustee is entitled to one vote in the Board. A majority of affirmative votes by trustees in attendance is necessary for a decision by the trustees at any meeting of the Board. A vote may only be taken if at least seven members of the Board are in attendance, in person or by telephone, for the meeting at which a vote on a decision is taken.

(e1) Recodified as G.S. 135-160(b) by Session Laws 2025-11, s. 1(j1), effective June 13, 2025.

(f) Rules. – Subject to the limitations of this Chapter, the Board of Trustees shall adopt rules for the administration of the funds created by this Chapter and for the transaction of its business. The Board shall, in its discretion, adopt rules to prevent injustices and inequalities that might otherwise arise in the administration of this Chapter.

(g) Officers and Other Employees; Salaries and Expenses. – The State Treasurer shall be ex officio chair of the Board of Trustees and shall appoint a director. The Board shall engage actuarial and other services required to transact the business of the Retirement System. The compensation of all persons, other than the director, engaged by the Board, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at rates and in amounts approved by the Board, subject to the approval of the Director of the Budget.

(h) Actuarial Data. – The Board of Trustees shall keep in convenient form data necessary for actuarial valuation of the various funds of the Retirement System and for checking the experience of the System.

(i) Record of Proceedings; Annual Report. – The Board of Trustees shall keep a record of all of its proceedings that shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the assets and liabilities of the Retirement System. It shall also publish annually a report on supplemental insurance offerings that are made available to retirees and the extent to which retirees participate in those offerings.

(j) Legal Adviser. – The Attorney General is the legal adviser of the Board of Trustees.

(k) Medical Board. – The Board of Trustees shall designate a Medical Board to be composed of not less than three nor more than five physicians not eligible to participate in the Retirement System. The Board of Trustees may structure appointment requirements and term durations for those Medical Board members. If required, other physicians may be employed to report on special cases. The Medical Board shall arrange for and pass upon all medical examinations required under this Chapter, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the Board of Trustees its conclusion and recommendations upon all the matters referred to it, except as otherwise provided in this Chapter. A person serving on the Medical Board is immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of that service, unless any of the following applies:

- (1) The person was not acting within the scope of that person's official duties.
- (2) The person was not acting in good faith.
- (3) The person committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.
- (4) The person derived an improper financial benefit, either directly or indirectly, from the transaction.
- (5) The person incurred the liability from the operation of a motor vehicle.

(l) Duties of Actuary. – The Board of Trustees shall designate an actuary to be the technical adviser of the Board on matters regarding the operation of the funds created by this Chapter. The experience studies and all other actuarial calculations required by this Chapter, and all the assumptions used by the System's actuary, including mortality tables, interest rates, annuity factors, the contribution-based benefit cap factor, and employer contribution rates, shall be set out in the actuary's periodic reports, annual valuations of System assets, or other materials provided to the Board. Notwithstanding Article 2A of Chapter 150B of the General Statutes, these materials, once accepted by the Board, are considered part of the Plan documentation governing the Retirement System and are effective the first day of the month following adoption unless a different date is specified in the adopting resolution. The effective date does not retroactively affect a contribution rate. The Board's minutes relative to all actuarial assumptions used by the System are also considered part of the Plan documentation governing the Retirement System, with the result of precluding any employer discretion in the determination of benefits payable under this section, consistent with Section 401(a)(25) of the Internal Revenue Code.

(m) Repealed by Session Laws 2025-25, s. 18(b), effective June 26, 2025.

(n) At least once every five years, the actuary shall complete an actuarial experience review of the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System and shall make a valuation of the assets and liabilities of the funds of the System. Taking into account the result of the actuarial investigation and valuation, the Board of Trustees shall do both of the following:

- (1) Adopt any necessary mortality, service, or other tables and any necessary contribution-based benefit cap factors for the Retirement System.
- (2) Certify the rates of contributions payable by the State of North Carolina on account of new entrants at various ages.

In order to pay for the administration of this section, the Retirement Systems Division of the Department of State Treasurer may increase receipts from the retirement assets of the Retirement System or may pay the costs directly from the retirement assets.

(n1) Prior to undertaking each quinquennial actuarial experience review, as required by this section, the Board of Trustees shall provide the General Assembly and the Governor a report that includes all of the following, as these items apply to the Retirement System:

- (1) A description of, and the process used to determine, the investment return assumption utilized by the Board of Trustees when determining the contribution rates.
- (2) An estimate of the range of likely employer contributions over 20 years based on analysis that simulates the volatility of annual investment returns above and below the expected rate, applying methodology determined by the actuary.
- (3) Projections of assets, liabilities, pension debt, service costs, employee contributions, employer contributions, net amortization, benefit payments, payroll, and funded ratio for the Retirement System for each of the next 30 years based upon the then-current actuarial assumptions, including the assumed rate of return.
- (4) Projections of assets, liabilities, pension debt, service costs, employee contributions, employer contributions, net amortization, benefit payments, payroll, and funded ratio for the Retirement System assuming that investment returns are two and four percentage points lower than the assumed rate of return and that the State makes employer contributions meeting all of the following:
 - a. The contributions are based upon the then-current funding policy for the Retirement System.

- b. The contributions are held constant at the levels calculated for subdivision (3) of this subsection.
 - c. The contributions never exceed fifteen percent (15%) of projected total revenue available for appropriation by the General Assembly.
- (5) Estimates for assets, liabilities, pension debt, service costs, employee contributions, employer contributions, net amortization, benefit payments, payroll, and funded ratio for the Retirement System, if there is a one-year loss on planned investments of twenty percent (20%) followed by a 20-year period of investment returns two percentage points below plan assumptions, with the following assumptions regarding contributions:
- a. The contributions are based upon the then-current funding policy for the Retirement System.
 - b. The contributions are held constant at the levels calculated for subdivision (3) of this subsection.
 - c. The contributions never exceed fifteen percent (15%) of projected total revenue available for appropriation by the General Assembly.
- (6) The estimated actuarially accrued liability, the total plan normal cost for all benefit tiers if multiple tiers exist, and the employer normal cost for all benefit tiers if multiple tiers exist, calculated using all of the following:
- a. A discount rate equal to the assumed rate of return. If the discount rate used by the Retirement System is different from the investment return assumption, then the report shall provide a calculation of actuarially accrued liability based upon a discount rate that is two percent (2%) and four percent (4%) above and below the long-term rate of return actually used by the Board of Trustees.
 - b. The 10-year average of the yield of 30-year treasury notes.
- (7) A description of the amortization period for any unfunded liabilities utilized by the Board of Trustees when determining the contribution rates.
- (8) A calculation of the contribution rates based on an amortization period equal to the estimated average remaining service periods of employees covered by the contributions.
- (9) A description of the interest assumption rate utilized by the Board of Trustees for reporting liabilities and the process used to determine that assumption.
- (10) The market value of the assets controlled by the Board of Trustees and an explanation of how the actuarial value assigned to those assets differs from the market value of those assets.
- (11) An assessment of how the changes of assumptions adopted by the Board of Trustees in the experience review affect any of the other results in the report.
- (12) Any additional information deemed useful by the Board of Trustees or the Investment Advisory Committee under G.S. 147-69.2 to evaluate or adjust the investment policy statement or to evaluate adherence to or risk associated with statutory constraints on investments.
- (13) Any additional information deemed useful by the Board to evaluate current or prospective funding or contribution policies.

(n2) With regards to payment for the administration of subsections (n), (n1), and (o) of this section, the Retirement Systems Division of the Department of State Treasurer may increase receipts from the retirement assets of the corresponding retirement system or may pay the costs directly from the retirement assets.

(o) On the basis of the tables and interest assumption rate adopted by the Board of Trustees, the actuary shall make an annual valuation of the assets and liabilities of the funds of the

System created by this Chapter. The annual valuation shall include a supplementary section that provides an analysis of assets on a market basis using the 30-year treasury rate as of December 31 of the year of the valuation as the discount rate. In order to pay for the administration of this section, the Retirement Systems Division of the Department of State Treasurer may increase receipts from the retirement assets of the Retirement System or may pay the costs directly from the retirement assets.

(p) Notwithstanding any law to the contrary, any board, agency, department, institution, or subdivision of the State maintaining lists of names and addresses in the administration of its programs may upon request provide to the Retirement System information limited to social security numbers, current name and addresses of persons identified by the System as members, beneficiaries, and beneficiaries of members of the System. The System shall use this information for the sole purpose of notifying members, beneficiaries, and beneficiaries of members of the person's rights to and accruals of benefits in the Retirement System. Any social security number, current name, and address obtained, any other information concluded from this information, and the source of this information are confidential and shall not be divulged by any employee of the Retirement System or of the Department of State Treasurer except as necessary to notify the member, beneficiary, or beneficiary of the member of the person's rights to and accruals of benefits in the Retirement System. Any person, officer, employee, or former employee violating this provision is guilty of a Class 1 misdemeanor; and if the offending person is a public official or employee, the person shall be dismissed from office or employment and shall not hold any public office or employment in this State for a period of five years thereafter.

(q) Compliance Investigations and Fraud Investigations – Access to Persons and Records. – In the course of conducting a compliance investigation or a fraud investigation, the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, has all of the following powers:

- (1) To have access to persons and to examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any employer. The review of State tax returns shall be limited to matters of official business, and the Division's report shall not violate the confidentiality provisions of tax laws.
- (2) To have access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation that is in the possession of any individual, private corporation, institution, association, board, or other organization pertaining to the following:
 - a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.
 - b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State.
- (3) To access, examine, and inspect all property, equipment, and facilities in the possession of any employer agency or any individual, private corporation, institution, association, board, or other organization that were furnished or otherwise provided through grant, contract, or any other type of funding by the employer agency.

With respect to the requirements of sub-subdivision (2)b. of this subsection, providers of social and medical services to a beneficiary shall make copies of records they maintain for services provided to a beneficiary available to the Retirement Systems Division, or to the authorized representatives who are assisting the Retirement Systems Division staff. Copies of the records of social and medical services provided to a beneficiary permit verification of the health or other status of a beneficiary as required for the payment of benefits under Article 1, Article 4, or Article 6 of this Chapter. The Retirement Systems Division, or authorized representatives who

are assisting the Retirement Systems Division staff, shall request records in writing by providing the name of each beneficiary for whom records are sought, the purpose of the request, the statutory authority for the request, and a reasonable period of time for the production of record copies by the provider. A provider may charge, and the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for copies of the records provided in accordance with this subsection.

(r) Compliance or Fraud Investigative Reports and Work Papers. – The Executive Director of the Retirement Systems Division shall maintain for 10 years a complete file of all compliance investigative reports, fraud investigative reports and reports of other examinations, investigations, surveys, and reviews issued under the Executive Director's authority. Fraud or compliance investigation work papers and other evidence or related supportive material directly pertaining to the work of the Retirement Systems Division of the Department of State Treasurer shall be retained according to an agreement between the Executive Director of the Retirement Systems Division and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of fraud and compliance investigative efforts, and notwithstanding local unit personnel policies to the contrary, pertinent work papers and other supportive material relating to issued fraud or compliance investigation reports may be, at the discretion of the Executive Director of the Retirement Systems Division and unless otherwise prohibited by law, made available for inspection by authorized representatives of the State and federal government who desire access to and inspection of the records in connection with some matter officially before them, including criminal investigations. Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, fraud and compliance investigation work papers and related supportive material shall be kept confidential, including any information developed as a part of the investigation.

(s) Fraud Reports May Be Anonymous. – The identity of any person reporting fraud, waste, and abuse to the Retirement Systems Division shall be kept confidential and shall not be maintained as a public record within the meaning of G.S. 132-1.

(t) Immunity. – A person serving on the Teachers' and State Employees' Retirement System Board of Trustees is immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of that service, unless any of the following applies:

- (1) The person was not acting within the scope of that person's official duties.
- (2) The person was not acting in good faith.
- (3) The person committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.
- (4) The person derived an improper personal financial benefit, either directly or indirectly, from the transaction.
- (5) The person incurred the liability from the operation of a motor vehicle.

(u) The Treasurer may designate legal counsel, including private counsel, to represent the interests of the administration of benefit programs under this Chapter. (1941, c. 25, s. 6; 1943, c. 719; 1947, c. 259; 1957, c. 541, s. 15; 1965, c. 780, s. 1; 1969, c. 805; c. 1223, s. 17; 1973, c. 241, s. 8; c. 507, s. 5; c. 1114; 1977, c. 564; 1979, c. 376; 1981 (Reg. Sess., 1982), c. 1191, s. 11; 1983 (Reg. Sess., 1984), c. 1034, s. 238; 1987, c. 539, s. 1; 1993, c. 539, s. 972; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 490, s. 57; 2012-130, ss. 2(b), 9(b); 2012-185, ss. 2(d), 4(b); 2013-287, s. 4(a); 2014-112, ss. 4(a), 6(a); 2016-108, s. 6(a)-(c); 2017-102, s. 33.2; 2017-102, s. 33.2; 2017-128, s. 1(d); 2020-29, s. 2(a); 2020-48, ss. 2.1(a), (b), 4.1(a), 4.2(a), (b); 2023-48, s. 3(a); 2023-105, s. 3.2; 2024-9, s. 1(c); 2024-57, s. 3D.1(I); 2025-11, s. 1(j1); 2025-25, s. 18(b).)