CHAPTER 128
ARTICLE 3 - RETIREMENT SYSTEM FOR COUNTIES, CITIES AND TOWNS

N.C.G.S. § 128-28.

Administration and responsibility for operation of System.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2025-25, s. 18(a) — twenty-fifth act in the lineage	21 September 2026, 04:06 UTC	dd4ce651e92ad49c1e4862bd - 12d851ff5217190ea976220d - 43165c2d0b5a7a56

§ 128-28(a) Vested in Board of Trustees. - The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of this Article are vested in the Board of Trustees. All expenses in connection with the administration of the North Carolina Local Governmental Employees' Retirement System shall be charged against and paid from the expense fund as provided in subsection (f) of G.S. 128-30.

§ 128-28(b) Board of Trustees a Body Politic and Corporate; Powers and Authority; Exemption from Taxation. - The Board of Trustees is a body politic and corporate under the name Board of Trustees of the North Carolina Local Governmental 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.

§ 128-28(c) Members of Board. - The Board shall consist of (i) five members of the Board of Trustees of the Teachers' and State Employees' Retirement System appointed under G.S. 135-6(b): the State Treasurer; the Superintendent of Public Instruction; the two members appointed by the General Assembly; and one of the two members appointed by the Governor who are not members of the teaching profession or State employees;

and (ii) eight members designated by the Governor. The members designated by the Governor are as follows:

(1) One member shall be a mayor or a member of the governing body of a city or town participating in the Retirement System.

(2) One member shall be a county commissioner of a county participating in the Retirement System.

(3) One member shall be a law-enforcement officer employed by an employer participating in the Retirement System.

(4) One member shall be a county manager of a county participating in the Retirement System.

(5) One member shall be a city or town manager of a city or town participating in the Retirement System.

(6) One member shall be an active, Fair Labor Standards Act nonexempt, local governmental employee of an employer.

(7) One member shall be a retired, Fair Labor Standards Act nonexempt, local governmental employee of an employer.

(8) One member shall be an active or retired member of the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

The Governor shall designate eight members on April 1 of years in which an election is held for the office of Governor, or as soon thereafter as possible, and each of the eight members designated by the Governor shall serve on the Board in addition to the regular duties of the member's city, town, or county office. If for any reason any member appointed pursuant to subdivisions (1) through (6) of this subsection vacates the city, town, or county office or employment that the member held at the time of this designation, the Governor shall designate another member to serve until the next regular date for the designation of members to serve on the Board.

§ 128-28(d) 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.

§ 128-28(e) 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. However, if a local governmental official designated by the Governor has taken an oath of office in connection with the local governmental office the official holds, the oath for local governmental office is deemed to be sufficient, and the official is not required to take the oath provided in this subsection.

§ 128-28(f) Voting Rights. - Each trustee is entitled to one vote in the Board. A majority of affirmative votes 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.

§ 128-28(f1) Recodified as G.S. 128-38.31(b) by Session Laws 2025-11, s. 4(d1), effective June 13, 2025.

§ 128-28(g) Rules. - Subject to the limitations of this Article, the Board of Trustees shall adopt rules for the administration of the funds created by this Article 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 Article.

§ 128-28(h) 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 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.

§ 128-28(i) 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.

§ 128-28(j) 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.

§ 128-28(k) Legal Adviser. - The Attorney General is the legal adviser of the Board of Trustees.

§ 128-28(l) 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. 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.

§ 128-28(m) 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.

§ 128-28(n) Repealed by Session Laws 2025-25, s. 18(a), effective June 26, 2025.

§ 128-28(o) At least once every five years, the actuary shall make an actuarial investigation into 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 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 participating units 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.

§ 128-28(p) 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.

§ 128-28(q) 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.

§ 128-28(r)

Fraud Investigations and Compliance Investigations. - Access to Persons and Records. - In the course of conducting a fraud investigation or compliance 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 3 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.

§ 128-28(s)

Fraud Investigative Reports and Work Papers or Compliance Investigative Reports and Work Papers. - The Executive Director of the Retirement Systems Division shall maintain for 10 years a complete file of all fraud investigative reports, compliance investigative reports, and reports of other examinations, investigations, surveys, and reviews issued under the Executive Director's authority. Fraud investigation work papers, 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 or compliance investigative effort, and notwithstanding local unit personnel policies to the contrary, pertinent work papers and other supportive material relating to issued fraud investigation reports or compliance investigative 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 or compliance investigation work papers and related supportive material shall be kept confidential, including any information developed as a part of the investigation.

§ 128-28(t) 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.

§ 128-28(u) Immunity. - A person serving on the Local Governmental 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.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
25 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

TICK HEIGHT = ACTS IN THAT YEAR   DASHED = RECODIFICATION, NOT AMENDMENT

№	YEAR	ACT	CHARACTER
01	1939	c. 390, s. 8	ENACTED
02	1941	c. 357, s. 6	AMENDED
03	1945	c. 526, s. 7	AMENDED
04	1961	c. 515, ss. 3, 4	AMENDED
05	1965	c. 781	AMENDED
06	1969	c. 442, s. 15	AMENDED
07	1973	c. 243, s. 8	AMENDED

08	1985	c. 479, s. 196(o)	AMENDED
09	1987	c. 539, s. 1	AMENDED
10	1993	c. 539, s. 944	AMENDED
11	1994	Ex. Sess., c. 24, s. 14(c)	AMENDED
12	2006	S.L. 2006-64, ss. 1.1, 1.2	AMENDED
13	2012	S.L. 2012-130, ss. 2(a), 9(a)	AMENDED
14	2012	S.L. 2012-185, ss. 2(c), 4(a)	AMENDED
15	2013	S.L. 2013-287, s. 4(b)	AMENDED
16	2014	S.L. 2014-112, ss. 4(b), 6(b)	AMENDED
17	2016	S.L. 2016-108, s. 6(d), (e)	AMENDED
18	2017	S.L. 2017-128, s. 1(h)	AMENDED
19	2018	S.L. 2018-85, s. 12	AMENDED
20	2020	S.L. 2020-29, s. 2(b)	AMENDED
21	2020	S.L. 2020-48, ss. 4.1(b), 4.2(c), (d)	AMENDED
22	2024	S.L. 2024-9, s. 1(d)	AMENDED
23	2025	S.L. 2025-11, s. 4(a), (d1)	AMENDED
24	2025	S.L. 2025-19, s. 7.3	AMENDED
25	2025	S.L. 2025-25, s. 18(a)	AMENDED

APPARATUS II
5 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 128-30	(a)	*"as provided in subsection (f) of"*
G.S. 135-6(b)	(c)	*"State Employees' Retirement System appointed under"*
G.S. 128-38.31(b)	(f1)	*"Recodified as"*
G.S. 90-411	(r)	*"Division staff, shall, in accordance with"*
G.S. 132-1	(t)	*"public record within the meaning of"*

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 128-28 (2025).

PINPOINT

N.C. Gen. Stat. § 128-28(a) (2025).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1939, c. 390, s. 8; 1941, c. 357, s. 6; 1945, c. 526, s. 7; 1961, c. 515, ss. 3, 4; 1965, c. 781; 1969, c. 442, s. 15; 1973, c. 243, s. 8; 1985, c. 479, s. 196(o); 1987, c. 539, s. 1; 1993, c. 539, s. 944; 1994, Ex. Sess., c. 24, s. 14(c); 2006-64, ss. 1.1, 1.2; 2012-130, ss. 2(a), 9(a); 2012-185, ss. 2(c), 4(a); 2013-287, s. 4(b); 2014-112, ss. 4(b), 6(b); 2016-108, s. 6(d), (e); 2017-128, s. 1(h); 2018-85, s. 12; 2020-29, s. 2(b); 2020-48, ss. 4.1(b), 4.2(c), (d); 2024-9, s. 1(d); 2025-11, s. 4(a), (d1); 2025-19, s. 7.3; 2025-25, s. 18(a).)

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NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1