

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 1069
May 12, 2020
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40553-MRp-167

Short Title: Retirement Technical Corrections Act of 2020.

(Public)

Sponsors: Representative C. Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CHANGES TO THE STATUTES GOVERNING THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL
4 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED
5 JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM,
6 THE SUPPLEMENTAL RETIREMENT INCOME PLAN, AND THE ACHIEVING A
7 BETTER LIFE EXPERIENCE (ABLE) PROGRAM TRUST.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 128-21 is amended by adding a new subdivision to read:

10 "(8a) "Duly acknowledged" means notarized, including electronic notarization, or
11 verified through an identity authentication service approved by the
12 Department of State Treasurer."

13 SECTION 1.(b) G.S. 135-1 is amended by adding a new subdivision to read:

14 "(8a) "Duly acknowledged" means notarized, including electronic notarization, or
15 verified through an identity authentication service approved by the
16 Department of State Treasurer."

17 SECTION 2.(a) G.S. 135-5(m4) reads as rewritten:

18 "(m4) A member who has contributions in this System and is not eligible for a retirement
19 benefit as set forth in G.S. 135-5(a) shall be paid his or her contributions in a lump sum as
20 provided in G.S. 135-5(f) by April 1 of the calendar year following the later of the calendar year
21 in which the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be a teacher
22 or State employee except by death. If ~~such the~~ member fails, following reasonable notification,
23 to complete a refund application by ~~such the~~ required date, then the requirement that a refund
24 application be completed shall be waived and the refund shall be paid without a refund
25 application as a single lump-sum payment with applicable required North Carolina and federal
26 income taxes withheld. ~~For purposes of this subsection, a member shall not be considered to have~~
27 ~~ceased to be a teacher or State employee if the member is actively contributing to the~~
28 ~~Consolidated Judicial Retirement System, Local Governmental Employees' Retirement System,~~
29 ~~or Legislative Retirement System. A lump sum refund shall not be paid under this subsection if~~
30 ~~the member is actively contributing to the Consolidated Judicial Retirement System, Local~~
31 ~~Governmental Employees' Retirement System, or Legislative Retirement System.~~

32 A member who has contributions in this System and is eligible for a retirement benefit as set
33 forth in G.S. 135-5(a) shall begin to receive a monthly benefit no later than April 1 of the calendar
34 year following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72
35 years of age or (ii) has ceased to be a teacher or State employee except by death. If ~~such the~~
36 member fails, following reasonable notification, to complete the retirement process as set forth



1 under Chapter 135 of the General Statutes by such required beginning date, then the requirement
2 that a retirement application and an election of payment plan form be completed shall be waived
3 and the retirement allowance shall be paid as a single life annuity. The single life annuity shall
4 be calculated and processed in accordance with ~~G.S. 135-5-~~this section.

5 For purposes of this subsection, a member shall not be considered to have ceased to be a
6 teacher or State employee if the member is actively contributing to the Consolidated Judicial
7 Retirement System, Local Governmental Employees' Retirement System, or Legislative
8 Retirement System. A retirement benefit or lump-sum refund shall not be paid under this
9 subsection if the member is actively contributing to the Consolidated Judicial Retirement System,
10 Local Governmental Employees' Retirement System, or Legislative Retirement System."

11 **SECTION 2.(b)** G.S. 128-27(m3) reads as rewritten:

12 "(m3) A member who has contributions in this System and is not eligible for a retirement
13 benefit as set forth in ~~G.S. 128-27(b21)-~~G.S. 128-27(a) or G.S. 128-27(a1) shall be paid his or
14 her contributions in a lump sum as provided in G.S. 128-27(f) by April 1 of the calendar year
15 following the later of the calendar year in which the member (i) attains ~~70 and one-half~~72 years
16 of age or (ii) has ceased to be an employee except by death. If ~~such-the~~ member fails, following
17 reasonable notification, to complete a refund application by ~~such-the~~ required date, then the
18 requirement that a refund application be completed shall be waived and the refund shall be paid
19 without a refund application as a single lump-sum payment with applicable required North
20 Carolina and federal income taxes withheld. ~~For purposes of this subsection, a member shall not~~
21 ~~be considered to have ceased to be an employee if the member is actively contributing to the~~
22 ~~Teachers' and State Employees' Retirement System, Consolidated Judicial Retirement System,~~
23 ~~or Legislative Retirement System. A lump-sum refund shall not be paid under this subsection if~~
24 ~~the member is actively contributing to the Teachers' and State Employees' Retirement System,~~
25 ~~Consolidated Judicial Retirement System, or Legislative Retirement System.~~

26 A member who has contributions in this System and is eligible for a retirement benefit as set
27 forth in ~~G.S. 128-27(21)-~~G.S. 128-27(a) or G.S. 128-27(a1) shall begin to receive a monthly
28 benefit no later than April 1 of the calendar year following the later of the calendar year in which
29 the member (i) attains ~~70 and one-half~~72 years of age or (ii) has ceased to be an employee except
30 by death. If ~~such-the~~ member fails, following reasonable notification, to complete the retirement
31 process as set forth under Chapter 128 of the General Statutes by ~~such-the~~ required beginning
32 date, then the requirement that a retirement application and an election of payment plan form be
33 completed shall be waived and the retirement allowance shall be paid as a single life annuity.
34 The single life annuity shall be calculated and processed in accordance with
35 ~~G.S. 128-27(b21)-~~this section.

36 For purposes of this subsection, a member shall not be considered to have ceased to be an
37 employee if the member is actively contributing to the Teachers' and State Employees'
38 Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System.
39 A retirement benefit or lump-sum refund shall not be paid under this subsection if the member is
40 actively contributing to the Teachers' and State Employees' Retirement System, Consolidated
41 Judicial Retirement System, or Legislative Retirement System."

42 **SECTION 2.(c)** G.S. 135-74(c1) reads as rewritten:

43 "(c1) A member who has contributions in this System and is not eligible for a retirement
44 benefit as set forth in ~~G.S. 135-58(a6)-~~G.S. 135-57 shall be paid his or her contributions in a lump
45 sum as provided in G.S. 135-62 by April 1 of the calendar year following the later of the calendar
46 year in which the member (i) attains ~~70 and one-half~~72 years of age or (ii) has ceased to be a
47 judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of
48 superior court as provided in G.S. 135-53, except by death. If ~~such-the~~ member fails, following
49 reasonable notification, to complete a refund application by ~~such-the~~ required date, then the
50 requirement that a refund application be completed shall be waived and the refund shall be paid
51 without a refund application as a single lump-sum payment with applicable required North

1 Carolina and federal income taxes withheld. ~~For purposes of this subsection, a member shall not~~
2 ~~be considered to have ceased to be a judge, district attorney, public defender, the Director of~~
3 ~~Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53 if the member~~
4 ~~is actively contributing to the Teachers' and State Employees' Retirement System, Local~~
5 ~~Governmental Employees' Retirement System, or Consolidated Judicial Retirement System. A~~
6 ~~lump-sum refund shall not be paid under this subsection if the member is actively contributing~~
7 ~~to the Teachers' and State Employees' Retirement System, Local Governmental Employees'~~
8 ~~Retirement System, or Consolidated Judicial Retirement System.~~

9 A member who has contributions in this System and is eligible for a retirement benefit as set
10 forth in ~~G.S. 120-4.21~~ G.S. 135-57 shall begin to receive a monthly benefit no later than April 1
11 of the calendar year following the later of the calendar year in which the member (i) attains ~~70~~
12 ~~and one-half~~ 72 years of age or (ii) has ceased to be a judge, district attorney, public defender,
13 the Director of Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53,
14 except by death. If ~~such~~ the member fails, following reasonable notification, to complete the
15 retirement process as set forth under Chapter ~~120-135~~ of the General Statutes by such required
16 beginning date, then the requirement that a retirement application and an election of payment
17 plan form be completed shall be waived and the retirement allowance shall be paid as a single
18 life annuity. The single life annuity shall be calculated and processed in accordance with ~~G.S.~~
19 ~~120-4.21~~ G.S. 135-58.

20 For purposes of this subsection, a member shall not be considered to have ceased to be a
21 judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of
22 superior court as provided in G.S. 135-53 if the member is actively contributing to the Teachers'
23 and State Employees' Retirement System, Local Governmental Employees' Retirement System,
24 or Consolidated Judicial Retirement System. A retirement benefit or lump-sum refund shall not
25 be paid under this subsection if the member is actively contributing to the Teachers' and State
26 Employees' Retirement System, Local Governmental Employees' Retirement System, or
27 ~~Consolidated Judicial Retirement System.~~ Legislative Retirement System."

28 **SECTION 2.(d)** G.S. 120-4.31(c1) reads as rewritten:

29 "(c1) A member who has contributions in this System and is not eligible for a retirement
30 benefit as set forth in G.S. 120-4.21 shall be paid his or her contributions in a lump sum as
31 provided in G.S. 120-4.25 by April 1 of the calendar year following the later of the calendar year
32 in which the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be a member
33 of the General Assembly, except by death. If ~~such~~ the member fails, following reasonable
34 notification, to complete a refund application by ~~such~~ the required date, then the requirement that
35 a refund application be completed shall be waived and the refund shall be paid without a refund
36 application as a single lump-sum payment with applicable required North Carolina and federal
37 income taxes withheld. ~~For purposes of this subsection, a member shall not be considered to have~~
38 ~~ceased to be a member of the General Assembly if the member is actively contributing to the~~
39 ~~Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement~~
40 ~~System, or Consolidated Judicial Retirement System. A lump-sum refund shall not be paid under~~
41 ~~this subsection if the member is actively contributing to the Teachers' and State Employees'~~
42 ~~Retirement System, Local Governmental Employees' Retirement System, or Consolidated~~
43 ~~Judicial Retirement System.~~

44 A member who has contributions in this System and is eligible for a retirement benefit as set
45 forth in G.S. 120-4.21 shall begin to receive a monthly benefit no later than April 1 of the calendar
46 year following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72
47 years of age or (ii) has ceased to be a member of the General Assembly, except by death. If ~~such~~
48 the member fails, following reasonable notification, to complete the retirement process as set
49 forth under Chapter 120 of the General Statutes by ~~such~~ the required beginning date, then the
50 requirement that a retirement application and an election of payment plan form be completed

1 shall be waived and the retirement allowance shall be paid as a single life annuity. The single life
2 annuity shall be calculated and processed in accordance with G.S. 120-4.21.

3 For purposes of this subsection, a member shall not be considered to have ceased to be a
4 member of the General Assembly if the member is actively contributing to the Teachers' and
5 State Employees' Retirement System, Local Governmental Employees' Retirement System, or
6 Consolidated Judicial Retirement System. A retirement benefit or lump-sum refund shall not be
7 paid under this subsection if the member is actively contributing to the Teachers' and State
8 Employees' Retirement System, Local Governmental Employees' Retirement System, or
9 Consolidated Judicial Retirement System."

10 **SECTION 2.(e)** This section becomes effective January 1, 2021, and applies to
11 members on or after that date. If a member attains age 70 and one-half years of age on or before
12 December 31, 2019, then the statute that is in effect on the day the member attains age 70 and
13 one-half years of age will be applicable to that member.

14 **SECTION 3.(a)** G.S. 135-90(b) reads as rewritten:

15 "(b) The purpose of the Article is to attract and hold qualified employees and officials of
16 the State of North Carolina and its political subdivisions by permitting them to participate in a
17 profit sharing or salary reduction form of deferred compensation which will provide
18 supplemental retirement income payments upon retirement, ~~disability~~, termination, hardship, and
19 death as allowed under section 401(k), or any other relevant section, of the Internal Revenue
20 Code of 1954 as amended. As used in this Article, the term "profit" means the excess revenue
21 over expenditures prior to the expenditure of the amount which may be optionally made available
22 for employees to be placed in trust by the State and its political subdivisions on behalf of the
23 employees and officials covered by this Article."

24 **SECTION 3.(b)** G.S. 135-92 reads as rewritten:

25 "**§ 135-92. Membership.**

26 (a) The membership eligibility of the Supplemental Retirement Income Plan shall consist
27 of any of the following individuals who voluntarily elect to ~~enroll~~enroll in the Plan:

- 28 (1) Members of the Teachers' and State Employees' Retirement ~~System;~~
29 and System.
- 30 (2) Members of the Consolidated Judicial Retirement ~~System; and~~System.
- 31 (3) Members of the Legislative Retirement ~~System; and~~System.
- 32 (4) Members of the Local Governmental Employees' Retirement ~~System;~~
33 and System.
- 34 (5) Law enforcement officers as defined under G.S. 143-166.30 and ~~G.S.~~
35 143-166.50; and G.S. 143-166.50.
- 36 (6) Participants in the Optional Retirement Program provided for under ~~G.S.~~
37 135-5.1; and G.S. 135-5.1.
- 38 (7) Members of retirement and pension plans sponsored by political subdivisions
39 of the State so long as such plans are qualified under Section 401(a) of the
40 Internal Revenue Code of 1986 as ~~amended from time to time~~amended.
- 41 (8) Individuals required under the Internal Revenue Code to be eligible for
42 participation in the Plan.

43 (b) The membership of any person in the Supplemental Retirement Income Plan shall
44 cease ~~upon~~upon any of the following:

- 45 (1) The withdrawal of a member's accumulated ~~account; or~~account.
- 46 (2) Retirement under the provisions of the Supplemental Income Retirement ~~Plan;~~
47 or Plan.
- 48 (3) Death."

49 **SECTION 3.(c)** G.S. 135-94(a)(3) reads as rewritten:

50 "(3) The Department of State Treasurer and Board of Trustees shall provide
51 members with alternative payment options, including survivors' options, for

1 the distribution of benefits from the Plan upon retirement, ~~disability,~~
2 termination, hardship, and death."

3 **SECTION 4.(a)** G.S. 147-86.70(b) reads as rewritten:

4 "(b) Definitions. – The following definitions apply in this section:

- 5 (1) ABLÉ account. – An account established and owned by an eligible individual
6 and maintained under this Article. A parent, sibling, guardian, or agent under
7 a power of attorney may act on behalf of an account owner.
8 (2) Account owner. – The person who enters into an ABLÉ savings agreement
9 pursuant to the provisions of this Article. The account owner must be the
10 designated beneficiary.
11 (3) Board. – The ABLÉ Program Board of Trustees established in
12 G.S. 147-86.72.
13 (4) Repealed by Session Laws 2016-56, s. 9(c), effective June 30, 2016.
14 (5) Designated beneficiary. – The eligible individual who established and owns
15 an ABLÉ account.
16 (6) Disability certification. – Defined in 26 U.S.C. § 529A(e)(2).
17 (7) Eligible individual. – Defined in 26 U.S.C. § 529A(e)(1).
18 (8) Federal ABLÉ Act. – Division B of the Tax Increase Prevention Act of 2014,
19 P.L. 113-295, the Achieving a Better Life Experience Act of 2014.
20 ~~(9) Member of the family. – A brother, sister, stepbrother, or stepsister.~~
21 (10) Qualified disability expense. – Defined in 26 U.S.C. § 529A(e)(5).
22 (11) Reserved for future codification purposes.
23 (12) Reserved for future codification purposes.
24 (13) Sibling. – A brother, sister, stepbrother, or stepsister."

25 **SECTION 4.(b)** G.S. 147-86.71(b) reads as rewritten:

26 "(b) Accounts. – The following provisions apply to an ABLÉ account:

- 27 (1) An account owner or contributor may establish an account by making an
28 initial contribution to the ABLÉ Program Trust, signing an application form
29 approved by the Board or its designee, and naming the designated beneficiary.
30 If the contributor is not the account owner, the account owner or the account
31 owner's parent, sibling, guardian, trustee, or agent shall also sign the
32 application form.
33 (2) Any person may make contributions to an account after the account is opened.
34 (3) Contributions to an account shall be made only in U.S. Dollars.
35 (4) Contributions to an account shall not exceed maximum contribution limits
36 applicable to program accounts in accordance with the federal ABLÉ Act.
37 (5) An account owner may change the designated beneficiary of an account to an
38 eligible individual who is a ~~member of the family~~ sibling of the former
39 designated beneficiary. At the direction of an account owner, all or a portion
40 of an account may be transferred to another account of which the designated
41 beneficiary is a ~~member of the family~~ sibling of the designated beneficiary of
42 the transferee account if the transferee account was created pursuant to this
43 section or in accordance with the federal ABLÉ Act."

44 **SECTION 4.(c)** G.S. 147-86.71(d)(9) reads as rewritten:

45 "(9) A parent, sibling, trustee, or guardian appointed as a signatory of an ABLÉ
46 account does not have or acquire any beneficial interest in the account and
47 administers the account for the benefit of the designated beneficiary."

48 **SECTION 4.(d)** This section is effective when it becomes law and applies to actions
49 taken on behalf of an ABLÉ account owner on or after that date.

50 **SECTION 5.** Except as provided otherwise, this act is effective when it becomes
51 law.