

**§ 128-22. Name and date of establishment.**

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for employees of those counties, cities and towns or other eligible employers participating in the said Retirement System. Following the filing of the application as provided in G.S. 128-23(c), the Board shall set a date, effective the first day of a calendar quarter, not more than 90 days thereafter, as of which date participation of the employer may begin, which date shall be known as the date of participation for such employer: Provided, that in the judgment of the Board of Trustees an adequate number of persons have indicated their intention to participate; otherwise at such later date as the Board of Trustees may set.

This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. This System shall have the power and privileges of a corporation and shall be known as the "North Carolina Local Governmental Employees' Retirement System," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from participating employers and participating employees to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of Article V, Section 6(2) of the North Carolina Constitution, relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees. (1939, c. 390, s. 2; 1941, c. 357, s. 2; 1943, c. 535; 1945, c. 526, s. 2; 1959, c. 491, s. 3; 2012-130, s. 7(b).)