

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1025
HOUSE BILL 407

AN ACT RELATING TO THE STATE COMMISSION FOR THE BLIND, TO CLARIFY THE EMPLOYEE STATUS OF BLIND AND VISUALLY HANDICAPPED EMPLOYEES OF THE COMMISSION, TO ENROLL SUCH EMPLOYEES IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, AND TO MAKE AN APPROPRIATION THEREFOR.

Whereas, the General Assembly of 1969 provided in Sec. 4 of Chapter 1255 that, "The North Carolina State Commission for the Blind is authorized and empowered to continue and maintain, in its discretion, any existing retirement system providing retirement benefits for blind vending stand operators and to expend funds to provide necessary contributions to any existing retirement system for blind vending stand operators to the extent that the Commission determines such retirement system to be in the best interest of the blind vending stand operators;" and Whereas, the General Assembly of 1969 in Sec. 5 of Chapter 1255 provided that, "The North Carolina State Commission for the Blind is hereby directed to make findings of fact and recommendations by the opening date of the 1971 Session of the North Carolina General Assembly as to the permanent basis upon which blind vending stand operators should be classified and designated for personnel purposes and as to the most beneficial and preferable basis upon which to provide adequate retirement benefits for blind vending stand operators;" and Whereas, the Retirement System referred to above consisted of "The Retirement Plan and Trust Agreement of North Carolina Bureau of Employment for the Blind" purportedly entered into December 6, 1966, between the North Carolina Bureau of Employment for the Blind, a bureau created by the State Commission for the Blind under G.S. 111-27.1; and Whereas, there was no legislative authority for the North Carolina Bureau of Employment for the Blind to enter into such Retirement Plan and Trust Agreement or to expend funds therefor; and Whereas, the purported Retirement Plan and Trust Agreement is therefore void; and Whereas, it has been determined, moreover, that the Retirement Trust purportedly established is actuarially unsound; and Whereas, it is desirable that the employee status of the blind and/or visually handicapped persons employed by the North Carolina Bureau of Employment for the Blind be clarified, that those who have already retired continue to receive retirement allowances, and that present employees be included in a sound retirement system with credit for all years of prior service; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-27.1 is hereby amended by adding a new sentence at the end thereof to read as follows: "Blind or visually handicapped employees or vending stand operators employed by the North Carolina State Commission for the Blind, Bureau of Employment for the Blind Division, are hereby declared to be State employees." **Sec. 2.** G.S. 126-5(b) is hereby amended by inserting in line 13 immediately before the word "officials" the words, "blind or visually handicapped employees of the State Commission for the Blind, Bureau of Employment for the Blind Division;"; it being the intent of this amendment to exempt these employees from Chapter 126 of the General Statutes, known as the State Personnel Act. **Sec. 3.** Chapter 135 of the General Statutes is hereby amended by inserting a new section immediately following G.S. 135-16, to be designated as G.S. 135-16.1, and to read

as follows: "§ 135-16.1. Blind or visually handicapped employees . — On July 1, 1971, all blind or visually handicapped employees employed by the State Commission for the Blind, Bureau of Employment for the Blind Division, shall be enrolled as members of the Teachers' and State Employees' Retirement System. All such employees shall be given full credit for all service theretofore as employees of the State Commission for the Blind, Bureau of Employment for the Blind Division. All retired employees drawing or receiving benefits from and under the private retirement plan purportedly created on December 6, 1966, by the Bureau of Employment for the Blind Division pursuant to a trust agreement purportedly entered into with a private banking institution as trustee shall continue to be paid by the Teachers' and State Employees' Retirement System benefits in the same amount which they purportedly were entitled to under the private retirement plan and trust agreement, except that such retired persons shall be eligible for such annual cost-of-living increases as may be provided for retirement members of the Teachers' and State Employees' Retirement System under the provisions of this Article.

Upon the enrollment of the employees in the Teachers' and State Employees' Retirement System, the purported private retirement plan and trust agreement hereinabove referred to shall be dissolved and terminated."Sec. 4. Upon the enrollment of the employees described in Sec. 3 of this act in the Teachers' and State Employees' Retirement System, and the termination of the purported private retirement plan and trust agreement, as provided in Sec. 3 of this act, the Board of Trustees of the Teachers' and State Employees' Retirement System shall become entitled to all the assets of the purported trust and the trustee of the trust shall transfer all the assets to the board, and thereupon, all obligations and responsibilities of the trustees with respect to the trust funds and the trust agreement shall terminate. Nothing contained in this section shall be construed to relieve the trustee of the private retirement plan from liability for any negligent or wrongful act or omission occurring prior to the transfer of assets provided for herein.Sec. 5. In order to fund the prior service liability which will be incurred by the Teachers' and State Employees' Retirement System, pursuant to the provisions of this act, there is hereby appropriated to the Teachers' and State Employees' Retirement System out of the general fund of the State the sum of \$145,000.Sec. 6. This act shall become effective July 1, 1971.

In the General Assembly read three times and ratified, this the 20th day of July, 1971.