

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 558
PROPOSED HOUSE COMMITTEE SUBSTITUTE S558-PCS85265-SV-39

Short Title: Treasurer's Investments.

(Public)

Sponsors:

Referred to:

April 1, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE STATE TREASURER'S
3 INVESTMENT AUTHORITY WITH REGARD TO SPECIAL FUNDS HELD BY THE
4 TREASURER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 147-69.2(b) reads as rewritten:

7 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
8 in subsection (a) of this section in excess of the amount required to meet the current needs and
9 demands on such funds. The State Treasurer may invest the funds as provided in this
10 subsection. If an investment was authorized by this subsection at the time the investment was
11 made or contractually committed to be made, then that investment shall continue to be
12 authorized by this subsection, and none of the percentage or other limitation on investments set
13 forth in this subsection shall be construed to require the State Treasurer to subsequently dispose
14 of the investment or fail to honor any contractual commitments as a result of changes in market
15 values, ratings, or other investment qualifications. For purposes of computing market values on
16 which percentage limitations on investments in this subsection are based, all investments shall
17 be valued as of the last date of the most recent fiscal quarter.

18 (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).

19 (2) General obligations of other states of the United States.

20 (3) General obligations of cities, counties and special districts in North Carolina.

21 (4) Obligations of any company, other organization or legal entity incorporated
22 or otherwise created or located within or outside the United States, including
23 obligations that are convertible into equity securities, if the obligations bear
24 one of the four highest ratings of at least one nationally recognized rating
25 service when acquired.

26 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.

27 (6) Asset-backed securities (whether considered debt or equity) provided they
28 bear ratings by nationally recognized rating services as provided in
29 G.S. 147-69.2(b)(4).

30 (6a) In addition to the limitations and requirements with respect to the
31 investments of the Retirement Systems set forth in this subsection, the State
32 Treasurer shall select investments of the assets of the Retirement Systems
33 such that investments made pursuant to subdivisions (b)(1) through (6) of
34 this section shall at all times equal or exceed twenty percent (20%) of the
35 market value of all invested assets of the Retirement Systems.



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- 1 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may
2 be made directly by the State Treasurer or through contractual arrangements
3 in which the investment manager has full and complete discretion and
4 authority to invest assets specified in such arrangements in investments
5 authorized by subdivisions (b)(1) through (6) of this section, provided for
6 each indirect investment, the investment manager has assets under
7 management of at least one hundred million dollars (\$100,000,000).
- 8 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),
9 they may be invested in ~~obligations and other obligations~~, debt securities, and
10 asset-backed securities, whether considered debt or equity, including ~~debt~~
11 obligations and securities convertible into other securities, that do not meet
12 the requirements of any of subdivisions (b)(1) through (6) of this section nor
13 subdivision (b)(7) of this section, provided such investments are made
14 through investment companies registered under the Investment Company
15 Act of 1940, individual, common, or collective trust funds of banks and trust
16 companies, group trusts and limited partnerships, limited liability companies
17 or other limited liability investment vehicles that invest primarily in
18 investments authorized by this subdivision and through contractual
19 arrangements in which the investment manager has full and complete
20 discretion and authority to invest assets specified in such arrangements in
21 investments authorized by this subdivision, provided the investment
22 manager for each investment pursuant to this subdivision has assets under
23 management of at least one hundred million dollars (\$100,000,000) and
24 provided that the investments authorized under this subdivision shall not
25 exceed ~~five percent (5%)~~ seven and one-half percent (7.5%) of the market
26 value of all invested assets of the Retirement Systems.
- 27 (7) With respect to Retirement Systems' assets referred to in subdivision (8) of
28 this subsection, (i) insurance contracts that provide for participation in
29 individual or pooled separate accounts of insurance companies, (ii) group
30 trusts, (iii) individual, common, or collective trust funds of banks and trust
31 companies, (iv) real estate investment trusts, (v) investment companies
32 registered under the Investment Company Act of 1940, ~~and~~ (vi) limited
33 partnerships, limited liability companies, or other limited liability investment
34 ~~vehicles;~~ vehicles, and (vii) contractual arrangements in which the
35 investment manager has discretion and authority to invest assets specified in
36 such arrangements in investments authorized by this subsection; provided
37 the investment manager has assets under management of at least one
38 hundred million dollars (\$100,000,000); provided such investment assets are
39 managed primarily for the purpose of investing in or owning real estate or
40 related debt ~~financing~~ financing, excluding asset-backed financing, located
41 within or outside the United States; and provided that the investments
42 authorized by this subdivision shall not exceed ten percent (10%) of the
43 market value of all invested assets of the Retirement Systems.
- 44 (8) With respect to assets of the Teachers' and State Employees' Retirement
45 System, the Consolidated Judicial Retirement System, the Firemen's and
46 Rescue Workers' Pension Fund, the Local Governmental Employees'
47 Retirement System, the Legislative Retirement System, the North Carolina
48 National Guard Pension Fund, and the Retiree Health Benefit Fund
49 (hereinafter referred to collectively as the Retirement Systems), and assets
50 invested pursuant to subdivision (b2) of this section, they may be invested in
51 equity securities traded on a public securities exchange or market organized

1 and regulated pursuant to the laws of the jurisdiction of such exchange or
2 market and issued by any company incorporated or otherwise created or
3 located within or outside the United States; provided the investments meet
4 the conditions of this subdivision. The investments authorized for the
5 Retirement Systems under this subdivision cannot exceed sixty-five percent
6 (65%) of the market value of all invested assets of the Retirement Systems.

7 The assets authorized under this subdivision may be invested directly by
8 the State Treasurer in any equity securities authorized by this subdivision for
9 the primary purpose of approximating the movements of a nationally
10 recognized and published market benchmark index. No more than one and
11 one-half percent (1.5%) of the market value of the Retirement Systems'
12 assets that may be invested directly under this subdivision can be invested in
13 the stock of a single corporation, and the total number of shares in that single
14 corporation cannot exceed eight percent (8%) of the issued and outstanding
15 stock of that corporation.

16 So long as each investment manager has assets under management of at
17 least one hundred million dollars (\$100,000,000), the assets authorized under
18 this subdivision may also be invested through any of the following:

- 19 a. Investment companies registered under the Investment Company Act
20 of 1940; individual, common, or collective trust funds of banks and
21 trust companies; and group trusts that invest primarily in investments
22 authorized by this subdivision.
- 23 b. Limited partnerships, limited liability companies, or other limited
24 liability investment vehicles that are not publicly traded and invest
25 primarily in investments authorized by this subdivision. Investments
26 under this sub-subdivision shall not exceed ~~six-eight~~ and one-half
27 percent (~~6.5%~~)(8.5%) of the market value of all invested assets of the
28 Retirement Systems.
- 29 c. Contractual arrangements in which investment managers have full
30 and complete discretion and authority to invest assets specified in
31 such contractual arrangements in investments authorized by this
32 subdivision.

- 33 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
34 of this subsection, they may be invested in interests in limited partnerships,
35 limited liability companies, or other limited liability investment vehicles that
36 are not publicly traded if the primary purpose of the limited partnership,
37 limited liability company, or other limited liability investment vehicle is (i)
38 to invest in private equity, or corporate buyout transactions, within or
39 outside the United States or (ii) to engage in other strategies not expressly
40 authorized by any other subdivision of this subsection. The amount invested
41 under this subdivision shall not exceed ~~seven and one-half percent (7.5%)~~
42 eight and three-quarters percent (8.75%) of the market value of all invested
43 assets of the Retirement Systems.

- 44 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
45 of this subsection, they may be invested in inflation-linked bonds,
46 timberlands, commodities, and other ~~assets~~investments that are acquired by
47 the Treasurer for the primary purpose of providing protection against risks
48 associated with inflation, provided such investments are made through
49 investment companies registered under the Investment Company Act of
50 1940, individual, common or collective trust funds of banks and trust
51 companies, group trusts and limited partnerships, limited liability companies

1 or other limited liability investment vehicles that invest primarily in
2 investments authorized by this subdivision and through contractual
3 arrangements in which the investment manager has full and complete
4 discretion and authority to invest assets specified in such arrangements in
5 investments authorized by this subdivision, provided the investment
6 manager for each investment pursuant to this subdivision has assets under
7 management of at least one hundred million dollars (\$100,000,000) and
8 provided that the investments authorized under this subdivision shall not
9 exceed ~~five percent (5%)~~ seven and one-half percent (7.5%) of the market
10 value of all invested assets of the Retirement Systems. Notwithstanding
11 anything in this subsection to the contrary, the investments authorized by
12 this subdivision shall not be included in any subdivision other than this
13 subdivision for purposes of the percentage investment limitations therein or
14 otherwise.

15 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.

16 (10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of
17 this subsection, the market value of any of subdivision (6c) or (7),
18 sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this
19 subsection shall not exceed ten percent (10%) of the market value of all
20 invested assets of the Retirement Systems; and the aggregate market value of
21 all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b.
22 of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not
23 exceed thirty-five percent (35%) of the market value of all invested assets of
24 the Retirement Systems. The quarterly report provided by the Treasurer
25 pursuant to G.S. 147-68(d1) shall include a specific listing of all direct and
26 indirect placement fees, asset fees, performance fees, and any other money
27 management fees incurred by the State in the management of subdivisions
28 (6c) and (7), sub-subdivision b. of subdivision (8), and subdivisions (9) and
29 (9a) of this subsection. In the event that the market value of any of
30 subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision
31 (9) or (9a) of this subsection increases during a fiscal year by an amount
32 greater than three percent (3%) of the market value of all invested assets of
33 the Retirement Systems as of the prior fiscal year end, then the quarterly
34 report provided by the Treasurer pursuant to G.S. 147-68(d1) shall describe
35 how that increase complies with the duties described in G.S. 147-69.7 and
36 the consequent expected impact on the risk profile of the Retirement
37 Systems' assets.

38 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina
39 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed
40 twenty-five million dollars (\$25,000,000), that have a final maturity not later
41 than October 1, 2014. The obligations shall bear interest at the rate set by the
42 State Treasurer. No commitment to purchase obligations may be made
43 pursuant to this subdivision after September 1, 1993, and no obligations may
44 be purchased after September 1, 1994. In the event of a loss to the Escheat
45 Fund by reason of an investment made pursuant to this subdivision, it is the
46 intention of the General Assembly to hold the Escheat Fund harmless from
47 the loss by appropriating to the Escheat Fund funds equivalent to the loss.

48 If any part of the property owned by the North Carolina Global
49 TransPark Authority now or in the future is divested, proceeds of the
50 divestment shall be used to fulfill any unmet obligations on an investment
51 made pursuant to this subdivision.

- 1 (12) With respect to assets of the Escheat Fund, in addition to those investments
2 authorized by subdivisions (1) through (6) of this subsection, up to twenty
3 percent (20%) of such assets may be invested in the investments authorized
4 under subdivisions (7) through (9) of this subsection, notwithstanding the
5 percentage limitations imposed on the Retirement Systems' investments
6 under those subdivisions."

7 **SECTION 2.** G.S. 147-69.7 reads as rewritten:

8 "**§ 147-69.7. Discharge of duties to Retirement Systems.**

9 (a) The Treasurer shall discharge his or her duties with respect to the ~~Teachers' and~~
10 ~~State Employees' Retirement System, the Consolidated Judicial Retirement System, the~~
11 ~~Firemen's and Rescue Squad Workers' Pension Fund, the Local Governmental Employees'~~
12 ~~Retirement System, the Legislative Retirement System, and the North Carolina National Guard~~
13 ~~Pension Fund (hereinafter referred to collectively as the Retirement Systems)~~Retirement
14 Systems enumerated in G.S. 147-69.2(b)(8) as follows:

- 15 (1) Solely in the interest of the participants and beneficiaries.
16 (2) For the exclusive purpose of providing benefits to participants and
17 beneficiaries and paying reasonable expenses of administering the
18 Retirement Systems.
19 (3) With the care, skill, and caution under the circumstances then prevailing
20 which a prudent person acting in a like capacity and familiar with those
21 matters would use in the conduct of an activity of like character and purpose.
22 (4) Impartially, taking into account any differing interests of participants and
23 beneficiaries.
24 (5) Incurring only costs that are appropriate and reasonable.
25 (6) In accordance with a good-faith interpretation of the law governing the
26 Retirement Systems.

27 (b) In investing and managing assets of the Retirement Systems pursuant to subsection
28 (a) of this section, the Treasurer:

- 29 (1) Shall consider the following circumstances:
30 a. General economic conditions.
31 b. The possible effect of inflation or deflation.
32 c. The role that each investment or course of action plays within the
33 overall portfolio of the Retirement Systems.
34 d. The expected total return from income and the appreciation of
35 capital.
36 e. Needs for liquidity, regularity of income, and preservation or
37 appreciation of capital.
38 f. The adequacy of funding for the Retirement Systems based on
39 reasonable actuarial factors.
40 (2) Shall diversify the investments of the Retirement Systems unless the
41 Treasurer reasonably determines that, because of special circumstances, it is
42 clearly prudent not to do so.
43 (3) Shall make a reasonable effort to verify facts relevant to the investment and
44 management of assets of the Retirement Systems.
45 (4) May invest in any kind of property or type of investment consistent with the
46 provisions of Article 6 of Chapter 146 of the General Statutes.
47 (5) May consider benefits created by an investment in addition to investment
48 return only if the Treasurer determines that the investment providing these
49 collateral benefits would be prudent even without collateral benefits.

1 (c) Compliance by the Treasurer with this section must be determined in light of the
2 facts and circumstances existing at the time of the Treasurer's decision or action and not by
3 hindsight.

4 (d) The Treasurer's investment and management decisions must be evaluated not in
5 isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of
6 an overall investment strategy having risk and return objectives reasonably suited to the
7 Retirement Systems."

8 **SECTION 3.** This act is effective when it becomes law.