

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**SESSION LAW 2001-444  
HOUSE BILL 327**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATE TREASURER'S INVESTMENT AUTHORITY AND TO GIVE THE STATE TREASURER MORE INVESTMENT FLEXIBILITY WITH RETIREMENT SYSTEMS' ASSETS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 147-69.1 reads as rewritten:

**"§ 147-69.1. Investments authorized for General Fund and Highway Funds assets.**

(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

- (1) The General Fund;
- (2) The Highway Fund and Highway Trust Fund.

(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United ~~States;~~States.
- (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, ~~the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks,~~ the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association.
- (3) Repurchase Agreements with respect to securities issued or guaranteed by the United States government or its agencies or other securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.
- (4) Obligations of the State of North ~~Carolina;~~Carolina.
- (5) Time deposits of financial institutions with a physical presence in North Carolina for the purpose of receiving commercial or retail deposits; provided that any principal amount of such deposit in excess of the amount insured by the federal government or any agency thereof, be fully secured by surety bonds, or be fully collateralized; provided further that the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable ~~maturity;~~maturity.
- (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

- (7) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.
- (8) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.
- (9) Asset-backed securities (whether considered debt or equity) provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest rating by any nationally recognized rating service which rates the particular securities.
- (10) Corporate bonds and notes provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

(d) Unless otherwise provided by law, the interest or income received and accruing from all deposits or investments of such cash balances shall be paid into the State's General Fund, except that all interest or income received and accruing on the monthly balance of the Highway Fund and Highway Trust Fund shall be paid into the State Highway Fund and Highway Trust Fund. The cash balances of the several funds may be combined for deposit or investment purposes; and when such combined deposits or investments are made, the interest or income received and accruing from all deposits or investments shall be prorated among the funds in conformity with applicable law and the rules and regulations adopted by the Governor and Council of State.

(e) The State Treasurer shall cause to be prepared quarterly statements on or before the tenth day of ~~January, April, July and October~~ February, May, August, and November in each year, which shall show the amount of cash on hand, the amount of money on deposit, the name of each depository, and all investments for which he is in any way responsible. Each quarterly statement shall be delivered to the ~~Governor and Council of State;~~ Governor, Council of State, President Pro Tempore of the Senate, and Speaker of the House of Representatives; and a copy shall be posted in the office of the State Treasurer for the information of the public.

(f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

~~(g) If and to the extent the General Assembly shall authorize the sale of all or any part of the stock owned by the State in the North Carolina Railroad Company or the Atlantic and North Carolina Railroad Company, the proceeds of any sale shall be separately accounted for and invested as expressly directed by the General Assembly, but in the absence of any express direction as to investment, the proceeds may be invested as authorized by this section."~~

**SECTION 2.** G.S. 147-69.2(b) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Any of the investments authorized by ~~G.S. 147-69.1(c);~~ G.S. 147-69.1(c)(1)-(7).
- (2) General obligations of other states of the United ~~States;~~ States.
- (3) General obligations of cities, counties and special districts in North ~~Carolina;~~ Carolina.

- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or ~~without~~ outside the United States if ~~such~~ the obligations bear one of the ~~three-four~~ highest ratings of at least one nationally recognized rating service and do not bear a rating below the ~~three-four~~ highest by any nationally recognized rating service which rates the particular ~~security~~; security.
- (5) ~~Notes secured by mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration on real estate located within the State of North Carolina;~~
- (6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in G.S. 147-69.2(b)(4) and that they do not bear a rating below the ~~three-four~~ highest by any nationally recognized rating service ~~which~~ that rates the particular ~~securities~~; securities.
- (7) With respect to Retirement Systems' assets referred to in G.S. 147-69.2(b)(8), (i) insurance contracts ~~which~~ that provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, ~~common~~ common, or collective trust funds of banks and trust ~~companies and companies~~, (iv) real estate investment ~~trusts~~; trusts, and (v) limited partnerships, whether described as limited liability partnerships or limited liability companies; provided the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt financing located ~~in~~ within or outside the United States; and provided that the investment authorized by this subsection shall not exceed ten percent (10%) of the ~~book~~ market value of all invested assets of the Retirement ~~Systems~~; Systems.
- (8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, ~~and~~ the Legislative Retirement ~~System~~ System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems), they may be invested in preferred or common stocks issued by any company incorporated or otherwise created or located within or ~~without~~ outside the United States, ~~provided~~; States provided the investments meet the conditions of this subdivision.

The investments authorized under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems. Up to five percent (5%) of the amount that may be invested under this subdivision may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" that has total assets of at least fifty million dollars (\$50,000,000).

The assets authorized under this subdivision can be invested through individual, common, or collective trust funds of banks, trust companies, and group trust funds of investment advisory companies so long as the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).

The assets authorized under this subdivision can also be invested directly, if all of the following conditions are met:

- a. ~~That~~ The common stock or preferred stock of such corporation is registered on a national securities exchange as provided in the

Federal Securities Exchange Act or quoted through the National Association of Securities Dealers' Automated Quotations (NASDAQ) ~~system; system.~~

- b. ~~That such~~ The corporation shall have ~~has~~ paid a cash dividend on its common stock in each year of the 5-year period next preceding the date of investment and the aggregate net earnings available for dividends on the common stock of ~~such~~ the corporation for the whole of ~~such~~ that period shall have been at least equal to the amount of ~~such~~ the dividends ~~paid; paid.~~
- c. ~~That in~~ In applying the dividend and earnings test under this section to any issuing, assuming, or guaranteeing corporation, ~~where such corporation shall have~~ if the corporation acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidation, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or ~~shall have~~ acquired the assets of any unincorporated business enterprise by purchase or otherwise, the dividends and net earnings of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this ~~section~~ subdivision have been complied ~~with; with.~~
- d. ~~That the book value of common and preferred stocks including securities convertible into common stocks shall not exceed fifty per centum (50%) of the book value of all invested assets of the Retirement Systems; provided, further:~~
  - 1. ~~Not~~  
No more than one and one-half per centum percent (1 1/2%) of the book value of such market value of the Retirement Systems' assets shall that may be invested under this subdivision can be invested in the stock of a single corporation, and provided further; the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.
  - 2. ~~The total number of shares in a single corporation shall not exceed eight per centum (8%) of the issued and outstanding stock of such corporation, and provided further;~~
  - 3. ~~As used in this subdivision d. and elsewhere in this section, book value shall mean adjusted cost basis as shown on the records of the State Treasurer.~~
- e. ~~Up to five per cent (5%) of the limits authorized in subdivision d. may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars (\$50,000,000).~~
- f. ~~Individual, common or collective trust funds of banks or trust companies provided that the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).~~
- g. That investments may be made in securities convertible into common stocks issued by any such company, if such securities bear one of the four highest ratings of at least one nationally recognized rating service and do not bear a rating below the

four highest by any nationally recognized rating service which may then rate the particular security.

- (9) ~~Obligations~~ With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, and securities of The North Carolina Enterprise Corporation, of the North Carolina Economic Opportunities Fund, or of a limited partnership in which The North Carolina Enterprise Corporation or the North Carolina Economic Opportunities Fund is the only general partner, not to exceed twenty million dollars (\$20,000,000) from all funds; and a they may be invested in limited partnership interest-interests in a partnership or in interests in a limited liability company whose-if the primary purpose of the partnership or limited liability company is to invest in venture capital-public or private debt, public or private equity, or corporate buyout transactions, within or outside the United States. The amount invested under this subdivision shall not to-exceed thirty million dollars (\$30,000,000) from all funds. five percent (5%) of the market value of all invested assets of the Retirement Systems. These maximum dollar amounts do not apply to or restrict the reinvestment in accordance with this subdivision of any income from these investments.
- (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than September 1, 2004. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss."

**SECTION 3.** G.S. 147-69.2(b1) reads as rewritten:

"(b1) With respect to investments authorized by ~~subsection (b)(8), subsections (b)(8) and (b)(9) of this section,~~ the State Treasurer shall appoint an ~~Equity~~ Investment Advisory Committee, which shall consist of five members: the State Treasurer, who shall be chairman ex officio; two members selected from among the members of the boards of trustees of the Retirement Systems; and two members selected from the general public. The two public members must have experience in one or more of the following areas: investment management, real estate investment trusts, real estate development, venture capital investment, or absolute return strategies. The State Treasurer shall also appoint a Secretary of the ~~Equity~~ Investment Advisory Committee who need not be a member of the committee. Members of the committee shall receive for their services the same per diem and allowances granted to members of the State boards and commissions generally. The committee shall have advisory powers only and membership shall not be deemed a public office within the meaning of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1."

**SECTION 4.** G.S. 147-69.3 reads as rewritten:

**"§ 147-69.3. Administration of State Treasurer's investment programs.**

(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2.

(b) Any official, board, commission, other public authority, local government, school administrative unit, local ABC board, or community college of the State having custody of any funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of ~~such those~~ funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments, provided that any occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer. In the absence of specific statutory provisions to the contrary, any ~~such of those~~ funds may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from any depositor eligible under this subsection, the State Treasurer may authorize moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), ~~net income~~ the total return earned on investments shall ~~be credited accrue~~ pro rata to the fund whose assets are invested according to ~~such formula as may be~~ the formula prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer ~~shall have~~ has full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may reinvest the proceeds from the sale of ~~such those~~ securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer, such costs to be paid from each program, and to the extent not otherwise chargeable directly to the income or assets of the specific investment program or pooled investment vehicle, shall be deposited with the State Treasurer as a General Fund nontax revenue. The cost of administration, management, and operation of investment programs established pursuant to this section and not directly paid from the income or assets of such program shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act.

(g) The State Treasurer is authorized to retain the services of ~~such~~ independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge ~~as may be~~ necessary for the proper administration of investment programs created pursuant to this section.

(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on the financial condition of each investment program created pursuant to this section. A copy of each report shall be submitted within 30 days following the end of the fiscal year to the official, institution, board, commission or other agency whose funds are invested, the State Auditor, and the Advisory Budget Commission.

(i) The State Treasurer's annual report to the General Assembly shall include a full and complete statement of all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2, the nature and character of investments therein, and the revenues derived therefrom. ~~The State Treasurer shall also establish annual investment yield targets for all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2, and shall include in his annual report a statement of the extent that these targets have been reached.~~

(j) Subject to the provisions of ~~G.S. 147-69.1(e)~~, G.S. 147-69.1(d), the State Treasurer shall adopt ~~such rules and regulations as may be~~ any rules necessary to carry out the provisions of this section."

**SECTION 5.** This act becomes effective October 1, 2001.  
In the General Assembly read three times and ratified this the 4<sup>th</sup> day of  
October, 2001.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 7:44 p.m. this 15<sup>th</sup> day of October, 2001