

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS35587-LB-452A (5/14)

Short Title: State Treasurer's Investment Programs.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT RELATING TO ADMINISTRATION OF THE STATE TREASURER'S
INVESTMENT PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-69.3(g) reads as rewritten:

"(g) The State Treasurer is authorized to retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, investment managers, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs created pursuant to this section. The retention of investment managers in connection with the administration of investments described in G.S. 147-69.2(b)(4), (b)(6), (b)(7), and (b)(8) is subject to the requirements of those subdivisions."

SECTION 2. G.S. 147-69.2(b) through (b5) 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)(1)-(7).
- (2) General obligations of other states of the United States.
- (3) General obligations of cities, counties and special districts in North Carolina.
- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States if the obligations 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 rates the particular ~~security~~security; such investments may be made (i) directly by the State Treasurer, (ii) through

1 investment companies registered under the "Investment Company Act
2 of 1940," individual, common, or collective trust funds of banks and
3 trust companies, group trusts and limited partnerships, limited liability
4 companies, or other limited liability investment vehicles that invest
5 substantially all of their assets in investments authorized by
6 subdivisions (b)(1) through (b)(6) of this section and (iii) through
7 contractual arrangements in which the investment manager has full and
8 complete discretion and authority to invest assets specified in such
9 arrangements in investments authorized by subdivisions (b)(1) through
10 (b)(6); provided that the investment manager has assets under
11 management of at least one hundred million dollars (\$100,000,000).

12 (4a) Bonds of the State of Israel registered under the Securities Act of
13 1933.

14 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.

15 (6) Asset-backed securities (whether considered debt or equity) provided
16 they bear ratings by nationally recognized rating services as provided
17 in ~~G.S. 147-69.2(b)(4)~~ subdivision (b)(4) of this section and that they
18 do not bear a rating below the four highest by any nationally
19 recognized rating service that rates the particular ~~securities.~~ securities;
20 such investments may be made (i) directly by the State Treasurer, (ii)
21 through investment companies registered under the Investment
22 Company Act of 1940, individual, common, or collective trust funds of
23 banks and trust companies, group trusts and limited partnerships, limit
24 liability companies or other limited liability investment vehicles that
25 invest substantially all of their assets in investments authorized by
26 subdivisions (b)(1) through (b)(6) of this section and through
27 contractual arrangements in which the investment manager has full and
28 complete discretion and authority to invest assets specified in such
29 arrangements in investments authorized by subdivisions (b)(1) through
30 (b)(6) of this section; provided the investment manager has assets
31 under management of at least one hundred million dollars
32 (\$100,000,000).

33 (7) With respect to Retirement Systems' assets referred to in
34 ~~G.S. 147-69.2(b)(8)~~, subdivision (b)(8) of this section, (i) insurance
35 contracts that provide for participation in individual or pooled separate
36 accounts of insurance companies, (ii) group trusts, (iii) individual,
37 common, or collective trust funds of banks and trust companies, (iv)
38 real estate investment trusts, ~~and~~ (v) investment companies registered
39 under the Investment Company Act of 1940, and (vi) limited
40 partnerships, ~~whether described as limited liability partnerships or~~
41 companies, or other limited liability companies; investment vehicles
42 that are not publicly traded; provided the investment manager has
43 assets under management of at least one hundred million dollars
44 (\$100,000,000); provided such investment assets are managed

1 primarily for the purpose of investing in or owning real estate or
2 related debt financing located within or outside the United States; and
3 provided that the ~~investment~~ investments authorized by this subsection
4 shall not exceed ten percent (10%) of the market value of all invested
5 assets of the Retirement ~~Systems~~ Systems, determined with respect to
6 a particular investment under this subdivision at the time of such
7 investment.

- 8 (8) With respect to assets of the Teachers' and State Employees'
9 Retirement System, the Consolidated Judicial Retirement System, the
10 Firemen's and Rescue Workers' Pension Fund, the Local
11 Governmental Employees' Retirement System, the Legislative
12 Retirement System, the North Carolina National Guard Pension Fund
13 (hereinafter referred to collectively as the Retirement Systems), and
14 assets invested pursuant to subdivision (b2) of this section, they may
15 be invested in ~~preferred or common stocks~~ equity securities traded on a
16 public securities exchange or market organized and regulated pursuant
17 to the laws of the jurisdiction of such exchange or market and issued
18 by any company incorporated or otherwise created or located within or
19 outside the United States and derivative securities described in this
20 subdivision traded on such public securities exchange or market;
21 provided the investments meet the conditions of this subdivision.

22 The investments authorized for the Retirement Systems under this
23 subdivision cannot exceed sixty-five percent (65%) of the market
24 value of all invested assets of the Retirement ~~Systems~~. ~~Up to five~~
25 ~~percent (5%) of the amount that may be invested under this~~
26 ~~subdivision may be invested in the stocks or shares of a diversified~~
27 ~~investment company registered under the "Investment Company Act of~~
28 ~~1940" that has total assets of at least fifty million dollars~~
29 ~~(\$50,000,000).~~ Systems, determined with respect to a particular
30 investment under this subdivision at the time of such investment.

31 ~~The~~ So long as each investment manager has assets under
32 management of at least one hundred million dollars (\$100,000,000),
33 the assets authorized under this subdivision can be invested through (i)
34 investment companies registered under the Investment Company Act
35 of 1940, (ii) individual, common, or collective trust funds of banks,
36 trust companies, and group trust funds of investment advisory
37 companies so long as the investment manager has assets under
38 management of at least one hundred million dollars (\$100,000,000).
39 and trust companies, (iii) group trusts, and (iv) contractual
40 arrangements in which investment managers have full and complete
41 discretion and authority to invest assets specified in such contractual
42 arrangements. In addition, any such investment manager may be
43 authorized by the State Treasurer to invest in derivative securities the
44 value of which is derived from or linked to any one or more underlying

1 securities or assets (or indices of securities or assets); provided that
2 investments in derivative securities are primarily for the purpose of
3 managing transaction or currency exchange risks in purchasing,
4 selling, or holding equity securities authorized under this subdivision.

5 The assets authorized under this subdivision can also be invested
6 directly, ~~if all by the State Treasurer in any of the following conditions~~
7 ~~are met:~~ following:

8 a. ~~The common stock or preferred stock of such corporation is~~
9 ~~registered on a national securities exchange as provided in the~~
10 ~~Federal Securities Exchange Act or quoted through the National~~
11 ~~Association of Securities Dealers' Automated Quotations~~
12 ~~(NASDAQ) system. Equity securities represented in any of the~~
13 ~~S&P, Russell, or MSCI Indices.~~

14 b. ~~The corporation has paid a cash dividend on its common stock~~
15 ~~in each year of the 5 year period next preceding the date of~~
16 ~~investment and the aggregate net earnings available for~~
17 ~~dividends on the common stock of the corporation for the whole~~
18 ~~of that period have been at least equal to the amount of the~~
19 ~~dividends paid. Derivative securities the value of which is~~
20 ~~derived from or linked to the value of an underlying security~~
21 ~~described in the preceding sub-subdivision; provided that such~~
22 ~~investments in derivative securities are primarily for the~~
23 ~~purpose of managing transaction or currency exchange risk in~~
24 ~~purchasing, selling, or holding equity securities authorized~~
25 ~~under this subdivision.~~

26 e. ~~In applying the dividend and earnings test under this section to~~
27 ~~any issuing, assuming, or guaranteeing corporation, if the~~
28 ~~corporation acquired its property or any substantial part thereof~~
29 ~~within a five year period immediately preceding the date of~~
30 ~~investment by consolidation, merger, or by the purchase of all~~
31 ~~or a substantial portion of the property of any other corporation~~
32 ~~or corporations, or acquired the assets of any unincorporated~~
33 ~~business enterprise by purchase or otherwise, the dividends and~~
34 ~~net earnings of the several predecessor or constituent~~
35 ~~corporations or enterprises shall be consolidated and adjusted so~~
36 ~~as to ascertain whether or not the applicable requirements of~~
37 ~~this subdivision have been complied with.~~

38 No more than one and one-half percent (1 1/2%) of the market
39 value of the Retirement Systems' assets that may be invested directly
40 under this subdivision can be invested in the stock of a single
41 corporation, and the total number of shares in that single corporation
42 cannot exceed eight percent (8%) of the issued and outstanding stock
43 of that ~~corporation.~~ corporation, each determined with respect to a

1 particular investment under the subdivision at the time of such
2 investment.

3 d. To f. Repealed by Session Laws 2001-444, s. 2, effective
4 October 1, 2001.

5 g. That investments may be made in securities convertible into
6 common stocks issued by any such company, if such securities
7 bear one of the four highest ratings of at least one nationally
8 recognized rating service and do not bear a rating below the
9 four highest by any nationally recognized rating service which
10 may then rate the particular security.

11 (9) With respect to Retirement Systems' assets, as defined in subdivision
12 (b)(8) of this subsection, they may be invested in limited partnership
13 interests in a partnership or in interests in a limited liability company if
14 the primary purpose of the partnership or limited liability company is
15 to invest in public or private debt, public or private equity, or corporate
16 buyout transactions, within or outside the United States. The amount
17 invested under this subdivision shall not exceed five percent (5%) of
18 the market value of all invested assets of the Retirement Systems.

19 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.
20 2.

21 (11) With respect to assets of the Escheat Fund, obligations of the North
22 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
23 not to exceed twenty-five million dollars (\$25,000,000), that have a
24 final maturity not later than October 1, 2009. The obligations shall
25 bear interest at the rate set by the State Treasurer. No commitment to
26 purchase obligations may be made pursuant to this subdivision after
27 September 1, 1993, and no obligations may be purchased after
28 September 1, 1994. In the event of a loss to the Escheat Fund by
29 reason of an investment made pursuant to this subdivision, it is the
30 intention of the General Assembly to hold the Escheat Fund harmless
31 from the loss by appropriating to the Escheat Fund funds equivalent to
32 the loss.

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

37 (12) With respect to assets of the Escheat Fund, in addition to those
38 investments authorized by subdivisions (1) through (6) of this
39 subsection, up to twenty percent (20%) in the investments authorized
40 under subdivisions (7) through (9) of this subsection, notwithstanding
41 the percentage limitations imposed on the ~~retirement funds~~ Retirement
42 Systems investments under those subdivisions.

43 (b1) With respect to investments authorized by ~~subsections~~ subdivisions (b)(8) and
44 (b)(9) of this section, the State Treasurer shall appoint an Investment Advisory

1 Committee, which shall consist of five members: the State Treasurer, who shall be
2 chairman ex officio; two members selected from among the members of the boards of
3 trustees of the Retirement Systems; and two members selected from the general public.
4 The two public members must have experience in one or more of the following areas:
5 investment management, real estate investment trusts, real estate development, venture
6 capital investment, or absolute return strategies. The State Treasurer shall also appoint a
7 Secretary of the Investment Advisory Committee who need not be a member of the
8 committee. Members of the committee shall receive for their services the same per diem
9 and allowances granted to members of the State boards and commissions generally. The
10 committee shall have advisory powers only and membership shall not be deemed a
11 public office within the meaning of Article VI, Section 9 of the Constitution of North
12 Carolina or G.S. 128-1.1.

13 (b2) The State Treasurer may invest funds deposited pursuant to subdivision
14 (a)(17f) of this section in any of the investments authorized under subdivisions (1)
15 through (6) and subdivision (8) of subsection (b) of this ~~section.~~section,
16 notwithstanding the percentage limitations imposed on the Retirement Systems
17 investments therein. The State Treasurer may require a minimum deposit, up to one
18 hundred thousand dollars (\$100,000), and may assess ~~a reasonable fee,~~reasonable fees
19 not to exceed 15 basis points, points per annum, as a condition of participation pursuant
20 to this subsection. Funds deposited pursuant to this subsection by a hospital shall remain
21 the funds of that hospital, and interest or other investment income earned thereon shall
22 be prorated and credited to the contributing hospital on the basis of the amounts thereof
23 contributed, figured according to sound accounting principles. Fees assessed by the
24 State Treasurer may be used to defray the cost of administering investments pursuant to
25 this subdivision.

26 (b3) The State Treasurer may invest funds deposited pursuant to subdivision
27 (a)(16a) of this section in any of the investments authorized under subdivisions (1)
28 through (6) and subdivision (8) of subsection (b) of this ~~section.~~section,
29 notwithstanding the percentage limitations imposed on the Retirement Systems
30 investments therein. The State Treasurer may require a minimum deposit, up to one
31 hundred thousand dollars (\$100,000), and may assess ~~a reasonable fee,~~reasonable fees,
32 not to exceed 15 basis points, points per annum, as a condition of participation pursuant
33 to this subsection. Funds deposited pursuant to this subsection by the University of
34 North Carolina Hospitals at Chapel Hill shall remain the funds of the University of
35 North Carolina Hospitals at Chapel Hill, and interest or other investment income earned
36 thereon shall be prorated and credited to the University of North Carolina Hospitals at
37 Chapel Hill on the basis of the amounts thereof contributed, figured according to sound
38 accounting principles.

39 (b4) In addition to the investments authorized under subdivisions(b)(1) through
40 (b)(6) of this section, the State Treasurer may invest funds deposited in the Local
41 Government Other Post-Employment Benefits Fund in any of the investments
42 authorized under subdivision (b)(8) of this ~~section.~~section, notwithstanding the
43 percentage limitations imposed on the Retirement Systems investments therein. For
44 investments from that Fund made under subdivision (b)(8) of this section, the State

1 Treasurer may require a minimum deposit of up to one hundred thousand dollars
2 (\$100,000) and may assess ~~a fee~~ fees of up to 15 basis points per annum as a condition
3 of making the investment. The fee may be used to defray the costs of administering the
4 Fund.

5 (b5) In addition to the investments authorized under subdivisions (b)(1) through
6 (b)(6) of this section, the State Treasurer may invest funds deposited in the Local
7 Government Law Enforcement Special Separation Allowance Fund in any of the
8 investments authorized under subdivision (b)(8) of this ~~section~~ section, notwithstanding
9 the percentage limitations imposed on the Retirement Systems investments therein. For
10 investments from that Fund made under subdivision (b)(8) of this section, the State
11 Treasurer may require a minimum deposit of up to one hundred thousand dollars
12 (\$100,000) and may assess ~~a fee~~ fees of up to 15 basis points per annum as a condition
13 of making the investment. The fee may be used to defray the costs of administering the
14 Fund."

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