

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1312
State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 6/2/04
House Committee Substitute Favorable 6/23/04

Short Title: Local Gov't Employees/457 Plan.

(Public)

Sponsors:

Referred to:

May 25, 2004

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE PARTICIPATION IN 457 PLANS BY LOCAL
2 GOVERNMENTAL EMPLOYEES.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 143B-426.24 reads as rewritten:

6 "**§ 143B-426.24. Board of Trustees of the North Carolina Public Employee**
7 **Deferred Compensation Plan.**

8 (a) The Governor may, by Executive Order, establish a Board of Trustees of the
9 North Carolina Public Employee Deferred Compensation Plan, which when established
10 shall be constituted an agency of the State of North Carolina within the Department of
11 Administration. The Board shall create, establish, implement, coordinate and administer
12 a Deferred Compensation Plan for State employees. employees of the State, any county
13 or municipality, the North Carolina Community College System, and any political
14 subdivision of the State. Until so established, the Board heretofore established pursuant
15 to Executive Order XII dated November 12, 1974, shall continue in effect. Likewise, the
16 Plan heretofore established shall continue until a new plan is established.

17 (b) The Board shall consist of seven voting members, as follows:

- 18 (1) Three persons shall be appointed by the Governor who shall have
19 experience with taxation, finance and investments, one of whom shall
20 be a State employee;
- 21 (2) One member shall be appointed by the General Assembly upon
22 recommendation of the Speaker of the House of Representatives under
23 G.S. 120-121;
- 24 (3) One member shall be appointed by the General Assembly upon
25 recommendation of the President Pro Tempore of the Senate under
26 G.S. 120-121;
- 27 (4) The State Treasurer, ex officio; and

1 (5) The Secretary of Administration, ex officio, chairman.

2 (c) General Assembly appointments shall serve two year terms. A member shall
3 continue to serve until his successor is duly appointed but a holdover under this
4 provision does not affect the expiration date of the succeeding term. No member of the
5 Board may serve more than three consecutive two year terms.

6 (d) In case of a vacancy on the Board before the expiration of a member's term, a
7 successor shall be appointed within 30 days of the vacancy for the remainder of the
8 unexpired term by the appropriate official pursuant to subsection (b). Vacancies in
9 legislative appointments shall be filled under G.S. 120-122.

10 (e) Other than ex officio members, members appointed by the Governor shall
11 serve at his pleasure.

12 (f) Any ex officio member may designate in writing, filed with the Board, any
13 employee of his department to act at any meeting of the Board from which the member
14 is absent, to the same extent that the member could act if present in person at such
15 meeting.

16 (g) It shall be the duty of the Board when established to review all contracts,
17 agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order
18 XII to include, but not be limited to, such contracts, agreements or arrangements
19 pertaining to the administrative services and the investment of deferred funds under the
20 Plan for the purpose of recommending continuation of or changes to such contracts,
21 agreements or arrangements.

22 (h) It shall be the duty of the Board to devise a uniform Deferred Compensation
23 Plan for teachers and ~~State~~ employees, which shall include a reasonable number of
24 options to the teacher or employee, for the investment of deferred funds, among which
25 may be life insurance, fixed or variable annuities and retirement income contracts,
26 regulated investment trusts, pooled investment funds managed by the Board or its
27 designee, or other forms of investment approved by the Board, always in such form as
28 will assure the desired tax treatment of such funds. The Board may alter, revise and
29 modify the Plan from time to time to improve the Plan or to conform to and comply
30 with requirements of State and federal laws and regulations relating to the deferral of
31 compensation of teachers and public employees generally.

32 (h1) Notwithstanding any other law, an employee of any county or municipality,
33 an employee of the North Carolina Community College System, or an employee of any
34 political subdivision of the State may participate in any 457 Plan adopted by the State,
35 with the consent of the Board and with the consent of the proper governing authority of
36 such county, municipality, community college, or political subdivision of the State
37 where such employee is employed.

38 (i) The Board is authorized to delegate the performance of such of its
39 administrative duties as it deems appropriate including coordination, administration, and
40 marketing of the Plan to teachers and employees. Prior to entering into any contract
41 with respect to such administrative duties, it shall seek bids, hold public hearings and in
42 general take such steps as are calculated by the Board to obtain competent, efficient and
43 worthy services for the performance of such administrative duties.

1 (j) The Board may acquire investment vehicles from any company duly
2 authorized to conduct such business in this State or may establish, alter, amend and
3 modify, to the extent it deems necessary or desirable, a trust for the purpose of
4 facilitating the administration, investment and maintenance of assets acquired by the
5 investment of deferred funds. All assets of the Plan, including all deferred amounts,
6 property and rights purchased with deferred amounts, and all income attributed thereto
7 shall be held in trust for the exclusive benefit of the Plan participants and their
8 beneficiaries.

9 (k) Members of the Board, who are not officers or employees of the State, shall
10 receive per diem and necessary travel and subsistence in accordance with the provisions
11 of G.S. 138-5, funded as provided in subsection (m) hereof.

12 (l) All clerical and other services and personnel required by the Board shall be
13 supplied by the Secretary of Administration, funded as provided in subsection (m)
14 hereof.

15 (m) Investment of deferred funds shall not be unreasonably delayed, and in no
16 case shall the investment of deferred funds be delayed more than 30 days. The Board
17 may accumulate such funds pending investment, and the interest earned on such funds
18 pending investment shall be available to and may be spent in the discretion of the Board
19 only for the reasonable and necessary expenses of the Board. The Secretary of
20 Administration is authorized to prescribe guidelines for the expenditure of such funds
21 by the Board. From time to time as the Board may direct, funds not required for such
22 expenses may be used to defray administrative expenses and fees which would
23 otherwise be required to be borne by teachers and employees who are then participating
24 in the Plan.

25 (n) A majority of the Board shall constitute a quorum for the transaction of
26 business.

27 (o) It is intended that the provisions of this Part shall be liberally construed to
28 accomplish the purposes provided for herein."

29 **SECTION 2.** G.S. 143B-426.24(h1), as enacted by Section 1 of this act,
30 becomes effective January 1, 2005. The remainder of this act becomes effective July 1,
31 2004.