

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS65445-RU-38 (05/13)

Short Title: State Retiree Disclosures/Health Benefit Liab. (Public)

Sponsors: Senator Shubert.

Referred to:

A BILL TO BE ENTITLED

AN ACT ADOPTING THE REPORTING REQUIREMENTS OF THE UNIFORM
MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS ACT FOR
ALL RETIREMENT SYSTEMS MANAGED BY THE STATE TREASURER, TO
REPEAL THE CHARTER OF THE GOLDEN L.E.A.F. (LONG-TERM
ECONOMIC ADVANCEMENT FOUNDATION), INC., AND TO INITIALLY
FUND THE STATE'S LIABILITY FOR STATE RETIREES HEALTH
INSURANCE BENEFITS WITH THE ASSETS OF THE GOLDEN L.E.A.F.,
INC., FIFTY PERCENT OF THE ANNUAL PAYMENT TO THE STATE UNDER
THE TOBACCO MASTER SETTLEMENT AGREEMENT AND UNSPENT
FUNDS REMAINING AT THE END OF THE 2004-2005 FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 147 of the General Statutes is amended by adding a
new Article to read:

"Article 6D.

"Retirement System Disclosure.

"§ 147-86.50. Disclosure to public.

(a) For purposes of this Article:

(1) "Beneficiary" means a person, other than the participant, who is
designated by a participant or by a retirement program to receive a
benefit under the program.

(2) "Participant" means an individual who is or has been an employee
enrolled in a retirement program and who is or may become eligible to
receive, or is currently receiving, a benefit under the program or whose
beneficiaries are or may become eligible to receive a benefit. The term
does not include an individual who is no longer an employee of a

1 public employer and has not accrued any nonforfeitable benefits under
2 the program.

3 (3) "Retirement program" means a program of rights and obligations that a
4 public employer establishes or maintains and which, by its express
5 terms or as a result of surrounding circumstances:

6 a. Provides retirement income to employees;

7 b. Provides health care plan benefits for retired employees; or

8 c. Results in a deferral of income by employees for periods
9 extending to the termination of covered employment or beyond.

10 (4) "Retirement system" means the Teachers' and State Employees'
11 Retirement System, the Consolidated Judicial Retirement System, the
12 Legislative Retirement System, the Local Governmental Employees'
13 Retirement System, the Firemen's and Rescue Workers' Pension Fund,
14 and the North Carolina National Guard Pension Fund.

15 (b) The State Treasurer shall prepare and disseminate, including publication on
16 the Internet:

17 (1) A summary plan description of each retirement program;

18 (2) A summary description of any material modification in the terms of
19 the program and any material change in the information required to be
20 contained in the summary plan description, to the extent the
21 modification or change has not been integrated into an updated
22 summary plan description;

23 (3) An annual disclosure of financial and actuarial status; and

24 (4) An annual report.

25 (c) The State Treasurer shall make available for public examination in the
26 principal office of the administrator and in other places if necessary to make the
27 information reasonably available to participants:

28 (1) The governing law of the retirement program and system;

29 (2) The most recent summary plan description;

30 (3) Summary descriptions of modifications or changes described in
31 subdivision (a)(2) of this section that have been provided to
32 participants and beneficiaries but have not yet been integrated into the
33 summary plan description;

34 (4) The most recent annual disclosure of financial and actuarial status; and

35 (5) The most recent annual report.

36 (d) Upon written request by a participant, beneficiary, or member of the public,
37 the State Treasurer shall provide a copy of any publication described in subsection (b)
38 of this section. Except as otherwise provided in G.S. 147-86.51(a), the State Treasurer
39 may charge a reasonable fee to cover the cost of providing copies. The State Treasurer
40 shall provide the copies within 30 days after the request or, if a fee is charged, within 30
41 days after receiving payment.

42 **"§ 147-86.51. Disclosure to participants and beneficiaries.**

43 (a) The State Treasurer shall furnish to each participant and to each beneficiary
44 who is receiving benefits under a retirement program:

- 1 (1) A copy of the most recent summary plan description, along with any
2 summary descriptions of modifications or changes described in
3 G.S. 147-86.50(a)(2), within three months after a person becomes a
4 participant or, in the case of a beneficiary, within three months after a
5 person first receives benefits, or, if later, within four months after the
6 retirement program becomes subject to this Article;
- 7 (2) The summary description of any modifications or changes described in
8 G.S. 147-86.50(a)(2), within seven months after the end of the fiscal
9 year in which a modification or change has been made;
- 10 (3) A copy of an updated summary plan description that integrates all
11 modifications and changes at intervals not exceeding five years; and
- 12 (4) The annual report within seven months after the end of each fiscal
13 year.

14 (b) The State Treasurer shall provide to a participant or beneficiary a statement
15 containing information that would permit the participant or beneficiary to estimate
16 projected benefits reasonably, to the extent the information is regularly maintained by
17 the retirement system. The information must be provided with the annual report or upon
18 written request of the participant or beneficiary. The information need not be provided
19 to a participant or beneficiary who is currently receiving benefits.

20 (c) A participant who is not currently receiving benefits is entitled without
21 charge to one statement under subsection (b) of this section during any fiscal year. The
22 State Treasurer may charge a reasonable fee to cover the cost of providing other
23 statements. The State Treasurer shall provide the statements within 30 days after the
24 participant's or beneficiary's request or, if a fee is charged, within 30 days after
25 receiving payment.

26 **"§ 147-86.52. Reports to Secretary of State.**

27 The State Treasurer shall file with the Secretary of State a copy of:

- 28 (1) The governing law of the retirement program and system within four
29 months after the system becomes subject to this Article and an updated
30 copy at least once every year thereafter;
- 31 (2) The summary plan description within four months after the system
32 becomes subject to this Article and of updated summary plan
33 descriptions at the same time they are first furnished to any participant
34 or beneficiary under G.S. 147-86.50(a)(3);
- 35 (3) Any summary description of modifications or changes within seven
36 months after the end of the fiscal year in which a modification or
37 change has been made; and
- 38 (4) The annual disclosure of financial and actuarial status and the annual
39 report within seven months after the end of each fiscal year.

40 **"§ 147-86.53. Summary plan description.**

41 (a) A summary plan description and a summary description of modifications or
42 changes under G.S. 147-86.50(a)(2) must be written in a manner calculated to be
43 understood by the average participant and be accurate and sufficiently comprehensive

1 reasonably to inform the participants and beneficiaries of their rights and obligations
2 under the retirement program.

3 (b) A summary plan description must contain:

- 4 (1) The name of the retirement program and system and type of
5 administration;
- 6 (2) The name and business address of the administrator;
- 7 (3) The name and business address of each agent for service of process;
- 8 (4) Citations to the governing law of the retirement program and system;
- 9 (5) A description of the program's requirements respecting eligibility for
10 participation and benefits;
- 11 (6) A description of the program's provisions providing for nonforfeitable
12 benefits;
- 13 (7) A description of circumstances that may result in disqualification,
14 ineligibility, or denial or loss of benefits;
- 15 (8) A description of the benefits provided by the program, including the
16 manner of calculating benefits and any benefits provided for spouses
17 and survivors;
- 18 (9) The source of financing of the program;
- 19 (10) The identity of any organization through which benefits are provided;
- 20 (11) The date the fiscal year ends;
- 21 (12) The procedures to claim benefits under the program and the
22 administrative procedures available under the program for the redress
23 of claims that are denied in whole or in part; and
- 24 (13) Notice of the availability of additional information pursuant to
25 G.S. 147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

26 **"§ 147-86.54. Annual disclosure of financial and actuarial status.**

27 (a) As used in this section, "qualified public accountant" means:

- 28 (1) An auditing agency of this State, or a political subdivision of this
29 State, which has no direct relationship with the functions or activities
30 of a retirement system or its fiduciaries other than:
 - 31 a. Functions relating to this Article; or
 - 32 b. A relationship between the system and the agency's employees
33 as participants or beneficiaries on the same basis as other
34 participants and beneficiaries; or
- 35 (2) A person who is an independent public accountant, certified or
36 licensed by a regulatory authority of a state.

37 (b) As used in this section, "related person" of an individual means:

- 38 (1) The individual's spouse or a parent or sibling of the spouse;
- 39 (2) The individual's descendant, sibling, or parent, or the spouse of the
40 individual's descendant, sibling, or parent;
- 41 (3) Another individual residing in the same household as the individual;
- 42 (4) A trust or estate in which an individual described in subdivision (1),
43 (2), or (3) of this subsection has a substantial interest;

- 1 (5) A trust or estate for which the individual has fiduciary responsibilities;
2 or
3 (6) An incompetent, ward, or minor for whom the individual has fiduciary
4 responsibilities.
- 5 (c) An annual disclosure of financial and actuarial status must contain:
- 6 (1) The name of the retirement system and identification of each
7 retirement program and, if programs are in an appropriate grouping of
8 programs, of each appropriate grouping of programs;
9 (2) The name and business address of the administrator;
10 (3) The name and business address of each trustee and each member of a
11 board of trustees and a brief description of how the trustee or member
12 was selected;
13 (4) The name and business address of each agent for service of process;
14 (5) The number of employees covered by each retirement program not in
15 an appropriate grouping of programs, or by each appropriate grouping
16 of programs, or both;
17 (6) The name and business address of each fiduciary;
18 (7) The current statement of investment objectives and policies;
19 (8) Financial statements and notes to the financial statements in
20 conformity with generally accepted accounting principles;
21 (9) An opinion on the financial statements by a qualified public
22 accountant in conformity with generally accepted auditing standards;
23 (10) In the case of a defined benefit plan, actuarial schedules and notes to
24 the actuarial schedules in conformity with generally accepted actuarial
25 principles and practices for measuring pension obligations;
26 (11) In the case of a defined benefit plan, an opinion by a qualified actuary
27 that the actuarial schedules are complete and accurate to the best of the
28 actuary's knowledge, that each assumption and method used in
29 preparing the schedules is reasonable, that the assumptions and
30 methods in the aggregate are reasonable, and that the assumptions and
31 methods in combination offer the actuary's best estimate of anticipated
32 experience;
33 (12) A description of any material interest, other than the interest in the
34 retirement program itself, held by any public employer participating in
35 the system or any employee organization representing employees
36 covered by the system in any material transaction with the system
37 within the last three years or proposed to be effected;
38 (13) A description of any material interest held by any trustee,
39 administrator, or employee who is a fiduciary with respect to the
40 investment and management of assets of the system, and, if the
41 fiduciary is an individual, by a related person of the beneficiary, in any
42 material transaction with the system within the last three years or
43 proposed to be effected;

- 1 (14) A schedule of the rates of return, net of total investment expense, on
2 assets of the system overall and on assets aggregated by category over
3 the most recent one-year, three-year, five-year, and 10-year periods, to
4 the extent available, and the rates of return on appropriate benchmarks
5 for assets of the system overall and for each category over each period;
6 (15) A schedule of the sum of total investment expense and total general
7 administrative expense for the fiscal year expressed as a percentage of
8 the fair value of assets of the system on the last day of the fiscal year,
9 and an equivalent percentage for the preceding five fiscal years; and
10 (16) A schedule of all assets held for investment purposes on the last day of
11 the fiscal year aggregated and identified by issuer, borrower, lessor, or
12 similar party to the transaction stating, if relevant, the asset's maturity
13 date, rate of interest, par or maturity value, number of shares, cost, and
14 fair value and identifying any asset that is in default or classified as
15 uncollectible.

16 **"§ 147-86.55. Annual report.**

17 An annual report must contain:

- 18 (1) The name and business address of each trustee and each member of a
19 board of trustees;
20 (2) The financial statements, but not the notes, required by
21 G.S. 147-86.54(c)(8);
22 (3) For defined benefit plans, the actuarial schedules, but not the notes,
23 required by G.S. 147-86.54(c)(10);
24 (4) The schedules described in G.S. 147-86.54(c)(14) and (15);
25 (5) A brief description of and information about how to interpret the
26 statements and schedules;
27 (6) Other material necessary to summarize fairly and accurately the annual
28 disclosure of financial and actuarial status; and
29 (7) Notice of the availability of additional information pursuant to
30 G.S. 147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

31 **"§ 147-86.56. Enforcement.**

32 (a) A public employer, participant, beneficiary, or fiduciary may maintain an
33 action:

- 34 (1) To enjoin an act, practice, or omission that violates this Article; or
35 (2) For other appropriate equitable relief to redress the violation of or to
36 enforce this Article.

37 (b) The Secretary of State may maintain an action to enjoin a violation of
38 G.S. 147-86.52.

39 (c) In an action under this section by a participant, beneficiary, or fiduciary, the
40 court may award reasonable attorneys' fees and costs to either party.

41 **"§ 147-86.57. Statute of limitations.**

42 An action under G.S. 147-86.56 must be commenced within three years."

43 **SECTION 2.** Part 3 of Article 3 of Chapter 135 is amended by adding a new
44 section to read:

1 **"§ 135-40.15. Retiree Health Care Plan Trust Fund.**

2 The Retiree Health Care Plan Trust Fund is established as an interest-bearing,
3 nonreverting special trust fund in the Department of State Treasurer. Notwithstanding
4 G.S. 143-15.2, 143-15.3, and 143-15.3A, any unreserved credit balance remaining in the
5 General Fund at the end of each fiscal year shall be transferred to the Retiree Health
6 Care Plan Trust Fund until such time as the State Treasurer certifies that it has been
7 actuarially determined that the Retiree Health Care Plan is fully funded so as to
8 amortize the unfounded liability based on a 30-year amortization. Moneys in the Trust
9 Fund shall be held in trust and used solely to provide benefits to qualified State retirees
10 and their beneficiaries in accordance with the State Retiree Health Care Plan. The Trust
11 Fund shall be used to supplement and not to supplant or replace existing State and local
12 funding available to provide benefits to qualified State retirees and their beneficiaries in
13 accordance with the State Retiree Health Care Plan.

14 The State Treasurer shall hold the Trust Fund separate and apart from all other
15 moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust
16 Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3.
17 Investment earnings credited to the assets of the Trust Fund shall become part of the
18 Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall
19 be carried forward in the Trust Fund for the next succeeding fiscal year."

20 **SECTION 3.** Section 6(1) of S.L. 1999-2 reads as rewritten:

21 "Section 6. It is the intent of the General Assembly that the funds under the Master
22 Settlement Agreement, which is incorporated into the Consent Decree, be allocated as
23 follows:

- 24 (1) Fifty percent (50%) to ~~the nonprofit corporation as provided by the~~
25 ~~Consent Decree~~ a trust fund to be established by the General Assembly
26 for providing health care benefits to State retirees and their
27 beneficiaries.

28 ..."

29 **SECTION 4.** G.S. 143-16.4 reads as rewritten:

30 **"§ 143-16.4. Settlement Reserve Fund.**

31 (a) The "Settlement Reserve Fund" is established as a restricted reserve in the
32 General Fund. Except as otherwise provided in this section, funds shall be expended
33 from the Settlement Reserve Fund only by specific appropriation by the General
34 Assembly.

35 (a1) A Health Trust Account is established in the Settlement Reserve Fund. The
36 portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L.
37 1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer
38 all funds in the Health Trust Account to the Health and Wellness Trust Fund created in
39 Article 6C of Chapter 147 of the General Statutes.

40 (a2) A Tobacco Trust Account is established in the Settlement Reserve Fund. The
41 portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L.
42 1999-2 shall be credited to the Tobacco Trust Account. The State Controller shall
43 transfer all funds in the Tobacco Trust Account to the Tobacco Trust Fund created in
44 Article 75 of Chapter 143 of the General Statutes.

1 (a3) A Retiree Health Care Plan Trust Account is established in the Settlement
2 Reserve Fund. The portion of each Master Settlement Agreement payment identified in
3 Section 6(1) of S.L. 1999-2 shall be credited to the Retiree Health Care Plan Trust
4 Account. The State Controller shall transfer all funds in the Retiree Health Care Plan
5 Trust Account to the Retiree Health Care Plan Trust Fund created in Part 3 of Article 3
6 of Chapter 135 of the General Statutes.

7 (b) Unless prohibited by federal law, federal funds provided to the State by block
8 grant or otherwise as part of federal legislation implementing a settlement between
9 United States tobacco companies and the states shall be credited to the Settlement
10 Reserve Fund. Unless otherwise encumbered or distributed under a settlement
11 agreement or final order or judgment of the court, funds paid to the State or a State
12 agency pursuant to a tobacco litigation settlement agreement, or a final order or
13 judgment of a court in litigation between tobacco companies and the states, shall be
14 credited to the Settlement Reserve Fund."

15 **SECTION 5.** The Golden L.E.A.F. (Long-term Economic Advancement
16 Foundation), Inc., is dissolved effective July 1, 2004. After wrapping up the affairs of
17 the corporation in accordance with G.S. 55A-14-06, the charter of the corporation is
18 hereby repealed pursuant to Article VIII, Section 1 of the North Carolina Constitution.
19 Upon dissolution, all unencumbered assets and funds of the nonprofit corporation,
20 including the right to receive future funds pursuant to Section 2 of S.L. 1999-2, are
21 transferred to the Settlement Reserve Fund established pursuant to G.S. 143-16.4.

22 **SECTION 6.** Notwithstanding G.S. 143-15.3 and G.S. 143-15.3A, any
23 unreserved credit balance remaining in the General Fund at the end of the 2004-2005
24 fiscal year shall be transferred to the Retiree Health Care Plan Trust Fund effective June
25 30, 2005.

26 **SECTION 7.** This act becomes effective July 1, 2004.