

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 930

Short Title: Retirement System Disclosure. (Public)

Sponsors: Senators Shubert, Webster; and Brock.

Referred to: Pensions & Retirement and Aging.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT ADOPTING THE REPORTING REQUIREMENTS OF THE UNIFORM
3 MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS ACT FOR
4 ALL RETIREMENT SYSTEMS MANAGED BY THE STATE TREASURER.

5 The General Assembly of North Carolina enacts:

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

8 "Article 6D.

9 "Retirement System Disclosure.

10 **"§ 147-86.50. Disclosure to public.**

11 (a) For purposes of this Article:

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

15 (2) "Participant" means an individual who is or has been an employee
16 enrolled in a retirement program and who is or may become eligible to
17 receive, or is currently receiving, a benefit under the program or whose
18 beneficiaries are or may become eligible to receive a benefit. The term
19 does not include an individual who is no longer an employee of a
20 public employer and has not accrued any nonforfeitable benefits under
21 the program.

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

25 a. Provides retirement income to employees; or

26 b. Results in a deferral of income by employees for periods
27 extending to the termination of covered employment or beyond.

28 (4) "Retirement system" means the Teachers' and State Employees'
29 Retirement System, the Consolidated Judicial Retirement System, the

1 Legislative Retirement System, the Local Governmental Employees'
2 Retirement System, the Firemen's and Rescue Workers' Pension Fund,
3 and the North Carolina National Guard Pension Fund.

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

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

7 (2) A summary description of any material modification in the terms of
8 the program and any material change in the information required to be
9 contained in the summary plan description, to the extent the
10 modification or change has not been integrated into an updated
11 summary plan description;

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

13 (4) An annual report.

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

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

18 (2) The most recent summary plan description;

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

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

24 (5) The most recent annual report.

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

31 **"§ 147-86.51. Disclosure to participants and beneficiaries.**

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

34 (1) A copy of the most recent summary plan description, along with any
35 summary descriptions of modifications or changes described in G.S.
36 147-86.50(a)(2), within three months after a person becomes a
37 participant or, in the case of a beneficiary, within three months after a
38 person first receives benefits, or, if later, within four months after the
39 retirement program becomes subject to this Article;

40 (2) The summary description of any modifications or changes described in
41 G.S. 147-86.50(a)(2), within seven months after the end of the fiscal
42 year in which a modification or change has been made;

43 (3) A copy of an updated summary plan description that integrates all
44 modifications and changes at intervals not exceeding five years; and

1 (4) The annual report within seven months after the end of each fiscal
2 year.

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

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

15 **"§ 147-86.52. Reports to Secretary of State.**

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

17 (1) The governing law of the retirement program and system within four
18 months after the system becomes subject to this Article and an updated
19 copy at least once every year thereafter;

20 (2) The summary plan description within four months after the system
21 becomes subject to this Article and of updated summary plan
22 descriptions at the same time they are first furnished to any participant
23 or beneficiary under G.S. 147-86.50(a)(3);

24 (3) Any summary description of modifications or changes within seven
25 months after the end of the fiscal year in which a modification or
26 change has been made; and

27 (4) The annual disclosure of financial and actuarial status and the annual
28 report within seven months after the end of each fiscal year.

29 **"§ 147-86.53. Summary plan description.**

30 (a) A summary plan description and a summary description of modifications or
31 changes under G.S. 147-86.50(a)(2) must be written in a manner calculated to be
32 understood by the average participant and be accurate and sufficiently comprehensive
33 reasonably to inform the participants and beneficiaries of their rights and obligations
34 under the retirement program.

35 (b) A summary plan description must contain:

36 (1) The name of the retirement program and system and type of
37 administration;

38 (2) The name and business address of the administrator;

39 (3) The name and business address of each agent for service of process;

40 (4) Citations to the governing law of the retirement program and system;

41 (5) A description of the program's requirements respecting eligibility for
42 participation and benefits;

43 (6) A description of the program's provisions providing for nonforfeitable
44 benefits;

- 1 (7) A description of circumstances that may result in disqualification,
2 ineligibility, or denial or loss of benefits;
- 3 (8) A description of the benefits provided by the program, including the
4 manner of calculating benefits and any benefits provided for spouses
5 and survivors;
- 6 (9) The source of financing of the program;
- 7 (10) The identity of any organization through which benefits are provided;
- 8 (11) The date the fiscal year ends;
- 9 (12) The procedures to claim benefits under the program and the
10 administrative procedures available under the program for the redress
11 of claims that are denied in whole or in part; and
- 12 (13) Notice of the availability of additional information pursuant to G.S.
13 147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

14 **"§ 147-86.54. Annual disclosure of financial and actuarial status.**

- 15 (a) As used in this section, "qualified public accountant" means:
- 16 (1) An auditing agency of this State, or a political subdivision of this
17 State, which has no direct relationship with the functions or activities
18 of a retirement system or its fiduciaries other than:
- 19 a. Functions relating to this Article; or
- 20 b. A relationship between the system and the agency's employees
21 as participants or beneficiaries on the same basis as other
22 participants and beneficiaries; or
- 23 (2) A person who is an independent public accountant, certified or
24 licensed by a regulatory authority of a State.
- 25 (b) As used in this section, "related person" of an individual means:
- 26 (1) The individual's spouse or a parent or sibling of the spouse;
- 27 (2) The individual's descendant, sibling, or parent, or the spouse of the
28 individual's descendant, sibling, or parent;
- 29 (3) Another individual residing in the same household as the individual;
- 30 (4) A trust or estate in which an individual described in subdivision (1),
31 (2), or (3) of this subsection has a substantial interest;
- 32 (5) A trust or estate for which the individual has fiduciary responsibilities;
33 or
- 34 (6) An incompetent, ward, or minor for whom the individual has fiduciary
35 responsibilities.
- 36 (c) An annual disclosure of financial and actuarial status must contain:
- 37 (1) The name of the retirement system and identification of each
38 retirement program and, if programs are in an appropriate grouping of
39 programs, of each appropriate grouping of programs;
- 40 (2) The name and business address of the administrator;
- 41 (3) The name and business address of each trustee and each member of a
42 board of trustees and a brief description of how the trustee or member
43 was selected;
- 44 (4) The name and business address of each agent for service of process;

- 1 (5) The number of employees covered by each retirement program not in
2 an appropriate grouping of programs, or by each appropriate grouping
3 of programs, or both;
- 4 (6) The name and business address of each fiduciary;
- 5 (7) The current statement of investment objectives and policies;
- 6 (8) Financial statements and notes to the financial statements in
7 conformity with generally accepted accounting principles;
- 8 (9) An opinion on the financial statements by a qualified public
9 accountant in conformity with generally accepted auditing standards;
- 10 (10) In the case of a defined benefit plan, actuarial schedules and notes to
11 the actuarial schedules in conformity with generally accepted actuarial
12 principles and practices for measuring pension obligations;
- 13 (11) In the case of a defined benefit plan, an opinion by a qualified actuary
14 that the actuarial schedules are complete and accurate to the best of the
15 actuary's knowledge, that each assumption and method used in
16 preparing the schedules is reasonable, that the assumptions and
17 methods in the aggregate are reasonable, and that the assumptions and
18 methods in combination offer the actuary's best estimate of anticipated
19 experience;
- 20 (12) A description of any material interest, other than the interest in the
21 retirement program itself, held by any public employer participating in
22 the system or any employee organization representing employees
23 covered by the system in any material transaction with the system
24 within the last three years or proposed to be effected;
- 25 (13) A description of any material interest held by any trustee,
26 administrator, or employee who is a fiduciary with respect to the
27 investment and management of assets of the system, and, if the
28 fiduciary is an individual, by a related person of the beneficiary, in any
29 material transaction with the system within the last three years or
30 proposed to be effected;
- 31 (14) A schedule of the rates of return, net of total investment expense, on
32 assets of the system overall and on assets aggregated by category over
33 the most recent one-year, three-year, five-year, and 10-year periods, to
34 the extent available, and the rates of return on appropriate benchmarks
35 for assets of the system overall and for each category over each period;
- 36 (15) A schedule of the sum of total investment expense and total general
37 administrative expense for the fiscal year expressed as a percentage of
38 the fair value of assets of the system on the last day of the fiscal year,
39 and an equivalent percentage for the preceding five fiscal years; and
- 40 (16) A schedule of all assets held for investment purposes on the last day of
41 the fiscal year aggregated and identified by issuer, borrower, lessor, or
42 similar party to the transaction stating, if relevant, the asset's maturity
43 date, rate of interest, par or maturity value, number of shares, cost, and

1 fair value and identifying any asset that is in default or classified as
2 uncollectible.

3 **"§ 147-86.55. Annual report.**

4 An annual report must contain:

- 5 (1) The name and business address of each trustee and each member of a
6 board of trustees;
7 (2) The financial statements, but not the notes, required by
8 G.S. 147-86.54(c)(8);
9 (3) For defined benefit plans, the actuarial schedules, but not the notes,
10 required by G.S. 147-86.54(c)(10);
11 (4) The schedules described in G.S. 147-86.54(c)(14) and (15);
12 (5) A brief description of and information about how to interpret the
13 statements and schedules;
14 (6) Other material necessary to summarize fairly and accurately the annual
15 disclosure of financial and actuarial status; and
16 (7) Notice of the availability of additional information pursuant to
17 G.S. 147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

18 **"§ 147-86.56. Enforcement.**

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

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

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

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

28 **"§ 147-86.57. Statute of limitations.**

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

30 **SECTION 2.** This act becomes effective January 1, 2004.