

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 443
Finance Committee Substitute Adopted 6/1/05

Short Title: Public Hospital Investments.

(Public)

Sponsors:

Referred to:

March 9, 2005

A BILL TO BE ENTITLED
AN ACT RELATING TO PUBLIC HOSPITAL INVESTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-39(g) reads as rewritten:

"(g) A public hospital may deposit or invest at interest all or part of its cash balance pursuant to ~~G.S. 159-30~~ G.S. 159-30 and may deposit any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, with the State Treasurer for investment pursuant to G.S. 147-69.2."

SECTION 2. G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of ~~of~~ of each of the following:

- (1) The Teachers' and State Employees' Retirement ~~System~~, System.
- (2) The Consolidated Judicial Retirement ~~System~~, System.
- (3) The Teachers' and State Employees' Hospital and Medical Insurance ~~Plan~~, Plan.
- (4) The General Assembly Medical and Hospital Care ~~Plan~~, Plan.
- (5) The Disability Salary Continuation ~~Plan~~, Plan.
- (6) The Firemen's and Rescue Workers' Pension ~~Fund~~, Fund.
- (7) The Local Governmental Employees' Retirement ~~System~~, System.
- (8) The Legislative Retirement ~~System~~, System.
- (9) The Escheat ~~Fund~~, Fund.
- (10) The Legislative Retirement ~~Fund~~, Fund.
- (11) The State Education Assistance ~~Authority~~, Authority.
- (12) The State Property Fire Insurance ~~Fund~~, Fund.
- (13) The Stock Workers' Compensation ~~Fund~~, Fund.
- (14) The Mutual Workers' Compensation ~~Fund~~, Fund.
- (15) The Public School Insurance ~~Fund~~, Fund.
- (16) The Liability Insurance Trust ~~Fund~~, Fund.

- 1 (17) Trust funds of The University of North Carolina and its constituent
2 institutions deposited with the State Treasurer pursuant to
3 ~~G.S. 116-36.1~~, G.S. 116-36.1.
- 4 (17a) North Carolina Veterans Home Trust ~~Fund~~, Fund.
- 5 (17b) North Carolina National Guard Pension ~~Fund~~, Fund.
- 6 (17c) Retiree Health Premium Reserve ~~Account~~, and Account.
- 7 (17d) The Election Fund.
- 8 (17e) Funds deposited with the State Treasurer by public hospitals pursuant
9 to G.S. 159-39(g).
- 10 (18) Any other special fund created by or pursuant to law for purposes
11 other than meeting appropriations made pursuant to the Executive
12 Budget Act.
- 13 (b) It shall be the duty of the State Treasurer to invest the cash of the funds
14 enumerated in subsection (a) of this section in excess of the amount required to meet the
15 current needs and demands on such funds, selecting from among the following:
- 16 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
- 17 (2) General obligations of other states of the United States.
- 18 (3) General obligations of cities, counties and special districts in North
19 Carolina.
- 20 (4) Obligations of any company, other organization or legal entity
21 incorporated or otherwise created or located within or outside the
22 United States if the obligations bear one of the four highest ratings of
23 at least one nationally recognized rating service and do not bear a
24 rating below the four highest by any nationally recognized rating
25 service which rates the particular security.
- 26 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 27 (6) Asset-backed securities (whether considered debt or equity) provided
28 they bear ratings by nationally recognized rating services as provided
29 in G.S. 147-69.2(b)(4) and that they do not bear a rating below the four
30 highest by any nationally recognized rating service that rates the
31 particular securities.
- 32 (7) With respect to Retirement Systems' assets referred to in
33 G.S. 147-69.2(b)(8), (i) insurance contracts that provide for
34 participation in individual or pooled separate accounts of insurance
35 companies, (ii) group trusts, (iii) individual, common, or collective
36 trust funds of banks and trust companies, (iv) real estate investment
37 trusts, and (v) limited partnerships, whether described as limited
38 liability partnerships or limited liability companies; provided the
39 investment manager has assets under management of at least one
40 hundred million dollars (\$100,000,000); provided such investment
41 assets are managed primarily for the purpose of investing in or owning
42 real estate or related debt financing located within or outside the
43 United States; and provided that the investment authorized by this

1 subsection shall not exceed ten percent (10%) of the market value of
2 all invested assets of the Retirement Systems.

- 3 (8) With respect to assets of the Teachers' and State Employees'
4 Retirement System, the Consolidated Judicial Retirement System, the
5 Firemen's and Rescue Workers' Pension Fund, the Local
6 Governmental Employees' Retirement System, the Legislative
7 Retirement System, ~~and~~ the North Carolina National Guard Pension
8 Fund (hereinafter referred to collectively as the Retirement Systems),
9 and assets invested pursuant to subdivision (b2) of this section, they
10 may be invested in preferred or common stocks issued by any
11 company incorporated or otherwise created or located within or
12 outside the United States provided the investments meet the conditions
13 of this subdivision.

14 The investments authorized for the Retirement Systems under this
15 subdivision cannot exceed sixty-five percent (65%) of the market
16 value of all invested assets of the Retirement Systems. Up to five
17 percent (5%) of the amount that may be invested under this
18 subdivision may be invested in the stocks or shares of a diversified
19 investment company registered under the "Investment Company Act of
20 1940" that has total assets of at least fifty million dollars
21 (\$50,000,000).

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

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

- 29 a. The common stock or preferred stock of such corporation is
30 registered on a national securities exchange as provided in the
31 Federal Securities Exchange Act or quoted through the National
32 Association of Securities Dealers' Automated Quotations
33 (NASDAQ) system.
- 34 b. The corporation has paid a cash dividend on its common stock
35 in each year of the 5-year period next preceding the date of
36 investment and the aggregate net earnings available for
37 dividends on the common stock of the corporation for the whole
38 of that period have been at least equal to the amount of the
39 dividends paid.
- 40 c. In applying the dividend and earnings test under this section to
41 any issuing, assuming, or guaranteeing corporation, if the
42 corporation acquired its property or any substantial part thereof
43 within a five-year period immediately preceding the date of
44 investment by consolidation, merger, or by the purchase of all

1 or a substantial portion of the property of any other corporation
2 or corporations, or acquired the assets of any unincorporated
3 business enterprise by purchase or otherwise, the dividends and
4 net earnings of the several predecessor or constituent
5 corporations or enterprises shall be consolidated and adjusted so
6 as to ascertain whether or not the applicable requirements of
7 this subdivision have been complied with.

8 No more than one and one-half percent (1 1/2%) of the market
9 value of the Retirement Systems' assets that may be invested under this
10 subdivision can be invested in the stock of a single corporation, and
11 the total number of shares in that single corporation cannot exceed
12 eight percent (8%) of the issued and outstanding stock of that
13 corporation.

14 d. to f. Repealed by Session Laws 2001-444, s. 2, effective
15 October 1, 2001.

16 g. That investments may be made in securities convertible into
17 common stocks issued by any such company, if such securities
18 bear one of the four highest ratings of at least one nationally
19 recognized rating service and do not bear a rating below the
20 four highest by any nationally recognized rating service which
21 may then rate the particular security.

22 (9) With respect to Retirement Systems' assets, as defined in subdivision
23 (b)(8) of this subsection, they may be invested in limited partnership
24 interests in a partnership or in interests in a limited liability company if
25 the primary purpose of the partnership or limited liability company is
26 to invest in public or private debt, public or private equity, or corporate
27 buyout transactions, within or outside the United States. The amount
28 invested under this subdivision shall not exceed five percent (5%) of
29 the market value of all invested assets of the Retirement Systems.

30 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.
31 2.

32 (11) With respect to assets of the Escheat Fund, obligations of the North
33 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
34 not to exceed twenty-five million dollars (\$25,000,000), that have a
35 final maturity not later than July 1, 2005. The obligations shall bear
36 interest at the rate set by the State Treasurer. No commitment to
37 purchase obligations may be made pursuant to this subdivision after
38 September 1, 1993, and no obligations may be purchased after
39 September 1, 1994. In the event of a loss to the Escheat Fund by
40 reason of an investment made pursuant to this subdivision, it is the
41 intention of the General Assembly to hold the Escheat Fund harmless
42 from the loss by appropriating to the Escheat Fund funds equivalent to
43 the loss.

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

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

25 (c) Repealed by Session Laws 1995, c. 501, s. 2."

26 **SECTION 2.** This act becomes effective October 1, 2005.