

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**SENATE BILL 703
Second Edition Engrossed 4/28/09**

Short Title: State Treasurer Investments. (Public)

Sponsors: Senator Rand.

Referred to: Finance.

March 24, 2009

-A BILL TO BE ENTITLED

AN ACT CONCERNING INVESTMENTS OF THE STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. 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 each of the following:

- (1) The Teachers' and State Employees' Retirement System.
- (2) The Consolidated Judicial Retirement System.
- (3) The Teachers' and State Employees' Hospital and Medical Insurance Plan.
- (4) The General Assembly Medical and Hospital Care Plan.
- (5) The Disability Salary Continuation Plan.
- (6) The Firemen's and Rescue Workers' Pension Fund.
- (7) The Local Governmental Employees' Retirement System.
- (8) The Legislative Retirement System.
- (9) The Escheat Fund.
- (10) The Legislative Retirement Fund.
- (11) The State Education Assistance Authority.
- (12) The State Property Fire Insurance Fund.
- (13) The Stock Workers' Compensation Fund.
- (14) The Mutual Workers' Compensation Fund.
- (15) The Public School Insurance Fund.
- (16) The Liability Insurance Trust Fund.
- (16a) The University of North Carolina Hospitals at Chapel Hill funds, except appropriated funds, deposited with the State Treasurer pursuant to G.S. 116-37.2.
- (17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- (17a) North Carolina Veterans Home Trust Fund.
- (17b) North Carolina National Guard Pension Fund.
- (17c) Retiree Health Premium Reserve Account.
- (17d) The Election Fund.
- (17e) The North Carolina State Lottery Fund.
- (17f) Funds deposited with the State Treasurer by public hospitals pursuant to G.S. 159-39(g).
- (17g) The Local Government Other Post-Employment Benefits Fund.



- 1 (17h) The Local Government Law Enforcement Special Separation Allowance
2 Fund.
- 3 (17i) The North Carolina Conservation Easement Endowment Fund.
- 4 (17j) The Conservation Grant Fund.
- 5 (18) Any other special fund created by or pursuant to law for purposes other than
6 meeting appropriations made pursuant to the Executive Budget Act.
- 7 (19) The Swain County Settlement Trust Fund.
- 8 (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
9 in subsection (a) of this section in excess of the amount required to meet the current needs and
10 demands on such funds, selecting from among the following:
- 11 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
- 12 (2) General obligations of other states of the United States.
- 13 (3) General obligations of cities, counties and special districts in North Carolina.
- 14 (4) Obligations of any company, other organization or legal entity incorporated
15 or otherwise created or located within or outside the United States~~States~~,
16 including obligations that are convertible into equity securities, if the
17 obligations either (i) when acquired, bear one of the four highest ratings of at
18 least one nationally recognized rating service and do not bear a rating below
19 the four highest by any nationally recognized rating service which rates the
20 particular security~~security~~ or (ii) when acquired, bear the fifth highest rating
21 of at least one nationally recognized rating service and do not bear a rating
22 below the fifth highest rating by any nationally recognized rating service
23 which rates the particular security, provided that the obligations are
24 additional securities that are identical to obligations previously acquired
25 pursuant to sub clause (i).
- 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 they if~~
28 the securities either (i) when acquired, bear ratings by nationally recognized
29 rating services as provided in G.S. 147-69.2(b)(4)subdivision (4) of this
30 subsection and that they do not bear a rating below the four highest by any
31 nationally recognized rating service that rates the particular
32 securities~~security~~ or (ii) when acquired, bear the fifth highest rating of at
33 least one nationally recognized rating service and do not bear a rating below
34 the fifth highest rating by any nationally recognized rating service which
35 rates the particular security, provided that the securities are additional
36 securities that are identical to securities previously acquired pursuant to sub
37 clause (i).
- 38 (6a) In addition to the limitations and requirements with respect to the
39 investments of the Retirement Systems set forth in this subsection, the State
40 Treasurer shall select investments of the assets of the Retirement Systems
41 such that investments made pursuant to subdivisions (b) (1) through (6) of
42 this section shall at all times equal or exceed twenty percent (20%) of the
43 market value of all invested assets of the Retirement Systems.
- 44 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may
45 be made directly by the State Treasurer or through contractual arrangements
46 in which the investment manager has full and complete discretion and
47 authority to invest assets specified in such arrangements in investments
48 authorized by subdivisions (b)(1) through (6) of this section, provided for
49 each indirect investment, the investment manager has assets under
50 management of at least one hundred million dollars (\$100,000,000).

1 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),
2 they may be invested in obligations and other debt securities, including debt
3 securities convertible into other securities, that do not meet the requirements
4 of any of subdivisions (b)(1) through (6) of this section nor subdivision
5 (b)(7) of this section, provided such investments are made through
6 investment companies registered under the Investment Company Act of
7 1940, individual, common collective trust funds of banks and trust
8 companies, group trusts and limited partnerships, limited liability companies
9 or other limited liability investment vehicles that invest primarily in
10 investments authorized by this subdivision and through contractual
11 arrangements in which the investment manager has full and complete
12 discretion and authority to invest assets specified in such arrangements in
13 investments authorized by this subdivision, provided the investment
14 manager for each investment pursuant to this subdivision has assets under
15 management of at least one hundred million dollars (\$100,000,000) and
16 provided that the investments authorized under this subdivision shall not
17 exceed five percent (5%) of the market value of all invested assets of the
18 Retirement Systems.

19 (7) With respect to Retirement Systems' assets referred to in
20 ~~G.S. 147-69.2(b)(8)~~, subdivision (8) of this subsection, (i) insurance contracts
21 that provide for participation in individual or pooled separate accounts of
22 insurance companies, (ii) group trusts, (iii) individual, common, or collective
23 trust funds of banks and trust companies, (iv) real estate investment trusts,
24 ~~and~~ (v) investment companies registered under the Investment Company Act
25 of 1940, and (vi) limited partnerships, whether described as limited liability
26 partnerships—companies, or other limited liability companies; investment
27 vehicles; provided the investment manager has assets under management of
28 at least one hundred million dollars (\$100,000,000); provided such
29 investment assets are managed primarily for the purpose of investing in or
30 owning real estate or related debt financing located within or outside the
31 United States; and provided that the investment investments authorized by
32 this subsection—subdivision shall not exceed ten percent (10%) of the market
33 value of all invested assets of the Retirement Systems.

34 (8) With respect to assets of the Teachers' and State Employees' Retirement
35 System, the Consolidated Judicial Retirement System, the Firemen's and
36 Rescue Workers' Pension Fund, the Local Governmental Employees'
37 Retirement System, the Legislative Retirement System, the North Carolina
38 National Guard Pension Fund (hereinafter referred to collectively as the
39 Retirement Systems), and assets invested pursuant to subdivision (b2) of this
40 section, they may be invested in ~~preferred or common stocks~~ equity securities
41 traded on a public securities exchange or market organized and regulated
42 pursuant to the laws of the jurisdiction of such exchange or market and
43 issued by any company incorporated or otherwise created or located within
44 or outside the United States—States; provided the investments meet the
45 conditions of this subdivision.

46 The investments authorized for the Retirement Systems under this
47 subdivision cannot exceed sixty-five percent (65%) of the market value of
48 all invested assets of the Retirement Systems. ~~Up to five percent (5%) of the~~
49 ~~amount that may be invested under this subdivision may be invested in the~~
50 ~~stocks or shares of a diversified investment company registered under the~~
51 ~~"Investment Company Act of 1940" that has total~~ So long as each

1 investment manager has assets under management of at least fifty million
2 dollars (\$50,000,000); one hundred million dollars (\$100,000,000), the The
3 assets authorized under this subdivision can be invested through (i)
4 investment companies registered under the Investment Company Act of
5 1940; (ii) individual, common, or collective trust funds of banks, banks and
6 trust companies, and group trust funds of investment advisory companies so
7 long as the investment manager has assets under management of at least one
8 hundred million dollars (\$100,000,000); (iii) group trusts, and (iv) contractual
9 arrangements in which investment managers have full and complete
10 discretion and authority to invest assets specified in such contractual
11 arrangements.

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

- 14 a. ~~The common stock or preferred stock of such corporation is~~
15 ~~registered on a national securities exchange as provided in the~~
16 ~~Federal Securities Exchange Act or quoted through the National~~
17 ~~Association of Securities Dealers' Automated Quotations (NASDAQ)~~
18 ~~system.~~
- 19 b. ~~The corporation has paid a cash dividend on its common stock in~~
20 ~~each year of the 5-year period next preceding the date of investment~~
21 ~~and the aggregate net earnings available for dividends on the~~
22 ~~common stock of the corporation for the whole of that period have~~
23 ~~been at least equal to the amount of the dividends paid.~~
- 24 e. ~~In applying the dividend and earnings test under this section to any~~
25 ~~issuing, assuming, or guaranteeing corporation, if the corporation~~
26 ~~acquired its property or any substantial part thereof within a five-year~~
27 ~~period immediately preceding the date of investment by~~
28 ~~consolidation, merger, or by the purchase of all or a substantial~~
29 ~~portion of the property of any other corporation or corporations, or~~
30 ~~acquired the assets of any unincorporated business enterprise by~~
31 ~~purchase or otherwise, the dividends and net earnings of the several~~
32 ~~predecessor or constituent corporations or enterprises shall be~~
33 ~~consolidated and adjusted so as to ascertain whether or not the~~
34 ~~applicable requirements of this subdivision have been complied with.~~
35 by the State Treasurer in any equity securities represented in the S&P
36 500 Index or that have been publicly announced to be included in the
37 S&P 500 Index. No more than one and one-half percent (1 1/2%) of
38 the market value of the Retirement Systems' assets that may be
39 invested directly under this subdivision can be invested in the stock
40 of a single corporation, and the total number of shares in that single
41 corporation cannot exceed eight percent (8%) of the issued and
42 outstanding stock of that corporation.
- 43 d. to f. Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 44 g. ~~That investments may be made in securities convertible into common~~
45 ~~stocks issued by any such company, if such securities bear one of the~~
46 ~~four highest ratings of at least one nationally recognized rating~~
47 ~~service and do not bear a rating below the four highest by any~~
48 ~~nationally recognized rating service which may then rate the~~
49 ~~particular security.~~

- 50 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
51 of this subsection, they may be invested in ~~limited partnership interests in a~~

1 ~~partnership or in interests in a limited liability company~~interests in limited
2 partnerships, limited liability companies, or other limited liability investment
3 vehicles that are not publicly traded if the primary purpose of the ~~partnership~~
4 ~~or limited liability company~~limited partnership, limited liability company, or
5 other limited liability investment vehicle is to invest in public or private
6 debt, public or private equity, or corporate buyout transactions, within or
7 outside the United States. The amount invested under this subdivision (b)(9)
8 shall not exceed five percent (5%) of the market value of all invested assets
9 of the Retirement Systems.

10 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
11 of this subsection, they may be invested in inflation-linked bonds,
12 timberlands, commodities, and other assets that are acquired for the primary
13 purpose of providing protection against risks associated with inflation,
14 provided such investments are made through investment companies
15 registered under the Investment Company Act of 1940, individual, common
16 or collective trust funds of banks and trust companies, group trusts and
17 limited partnerships, limited liability companies or other limited liability
18 investment vehicles that invest primarily in investments authorized by this
19 subdivision and through contractual arrangements in which the investment
20 manager has full and complete discretion and authority to invest assets
21 specified in such arrangements in investments authorized by this
22 subdivision, provided the investment manager for each investment pursuant
23 to this subdivision has assets under management of at least one hundred
24 million dollars (\$100,000,000) and provided that the investments authorized
25 under this subdivision shall not exceed five percent (5%) of the market value
26 of all invested assets of the Retirement Systems. Notwithstanding anything
27 in this subsection to the contrary, the investments authorized by this
28 subdivision shall not be included in any subdivision other than this
29 subdivision for purposes of the percentage investment limitations therein or
30 otherwise.

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

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

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

46 (12) With respect to assets of the Escheat Fund, in addition to those investments
47 authorized by subdivisions (1) through (6) of this subsection, up to twenty
48 percent (20%) of such assets may be invested in the investments authorized
49 under subdivisions (7) through (9) of this ~~subsection~~subsection (b)
50 notwithstanding the percentage limitations imposed on the ~~retirement~~
51 ~~funds~~Retirement Systems' investments under those subdivisions.

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

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

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

39 (b4) In addition to the investments authorized under subdivisions(b)(1) through ~~(6)(6)~~ of
40 this section, the State Treasurer may invest funds deposited in the Local Government Other
41 Post-Employment Benefits Fund in any of the investments authorized under ~~subdivision~~
42 subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage
43 limitations imposed on the Retirement Systems' investments therein. For investments from that
44 Fund made under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer
45 may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may
46 assess a ~~fee~~fees of up to 15 basis points per annum as a condition of making the investment.
47 The fee may be used to defray the costs of administering the Fund.

48 (b5) In addition to the investments authorized under subdivisions (b)(1) through ~~(6)(6)~~ of
49 this section, the State Treasurer may invest funds deposited in the Local Government Law
50 Enforcement Special Separation Allowance Fund in any of the investments authorized under
51 ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the

1 percentage limitations imposed on the Retirement Systems' investments therein. For
2 investments from that Fund made under ~~subdivision~~subdivisions (b)(6c) and (b)(8) of this
3 section, the State Treasurer may require a minimum deposit of up to one hundred thousand
4 dollars (\$100,000) and may assess ~~a fee~~fees of up to 15 basis points per annum as a condition
5 of making the investment. The fee may be used to defray the costs of administering the Fund.

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

7 (d) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17i) of
8 this section in any of the investments authorized under subdivisions (1) through (6) and
9 subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum
10 deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to
11 exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds
12 deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation
13 Easement Endowment Fund, and interest or other investment income earned thereon shall be
14 prorated and credited to the North Carolina Conservation Easement Endowment Fund on the
15 basis of the amounts thereof contributed, figured according to sound accounting principles."

16 **SECTION 2.** This act is effective when it becomes law.