

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 433
HOUSE BILL 524

AN ACT TO AUTHORIZE THE PURCHASE OF ANNUITY CONTRACTS FOR STATE
EMPLOYEES, AND TO AUTHORIZE DEFERRED COMPENSATION PLANS.

The General Assembly of North Carolina do enact:

Section 1. Definitions. — The following words when used in this act shall have the meanings ascribed to them in this section except when the context clearly indicates a different meaning:

- (1) "Chief executive officer" shall mean the person or group of persons responsible for the administration of any department or agency of the State of North Carolina, or of a wholly owned institution or instrumentality thereof, or an agent of such chief executive officer duly authorized to enter into the contracts with State employees referred to in Sections 2 and 3 of this act.
- (2) "Employee" shall mean a permanent employee of the State of North Carolina, or if any of its departments or agencies, or of any of its wholly owned institutions and instrumentalities.
- (3) "Employer" shall mean the State of North Carolina, its departments and agencies, and its wholly owned institutions and instrumentalities.

Sec. 2. Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision of law relating to salaries or salary schedules of State employees, if the employee be one described in Sec. 403(b) (1) (A) (i) or (ii) of the United States Internal Revenue Code, the chief executive officer of such employee, on behalf of the employer, may enter into an annual contract with the employee which provides for a reduction in salary below the total established compensation or salary schedule for a term of one year. The chief executive officer shall use the funds derived from the reduction in the salary of the employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said employee. An employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective. The agreement for salary reduction referred to herein shall be effective under the necessary regulations and procedures adopted by the chief executive officer and on forms prescribed by him. Notwithstanding any other provision of law, the amount by which the salary of an employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, if any, and in computing and providing matching funds for retirement system purposes, if any.

Sec. 3. Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision of law relating to salaries or salary schedules of State employees, the chief executive officer of an employee, on behalf of the employer, may enter into an annual contract with an employee under which the employee irrevocably elects to defer receipt of a portion of his following year's scheduled salary, but only if, as a result of such contract, the income so

deferred is not constructively received by the employee in the year in which it was earned, for federal income tax purposes. In addition, the income so deferred must be used to purchase an annuity or retirement income contract for the benefit of said employee, or to purchase shares in mutual funds for his benefit. An employee who has agreed to a deferred compensation plan for this purpose shall not have the right to receive the income so deferred in cash or in any way other than as provided above. Funds used for the purchase of an annuity or retirement income contract or mutual fund shares shall not be in lieu of any amount earned by the employee before his election to defer compensation has become effective. The agreement to defer income referred to herein shall be effective under the necessary regulations and procedures adopted by the chief executive officer and on forms prepared by him. Notwithstanding any other provisions of law, the amount by which the salary of an employee is deferred pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, if any, and in computing and providing matching funds for retirement system purposes, if any.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1971.