

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 2728**

Short Title: Supplemental Retirement Board of Trustees. (Public)

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Sponsors: Representatives Bell, J. Harrell (Primary Sponsors); and Lucas.

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Referred to: Pensions and Retirement.

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May 28, 2008

A BILL TO BE ENTITLED

1 AN ACT TO CONSOLIDATE THE BOARD OF TRUSTEES FOR THE NORTH  
2 CAROLINA 401(K) PLAN AND THE BOARD OF TRUSTEES OF THE NORTH  
3 CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN INTO  
4 THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 135-91(a) reads as rewritten:

8 "(a) The provisions of this Article shall be administered by the Department of  
9 State Treasurer and a ~~Board of Trustees consisting of the Board of Trustees of the~~  
10 ~~Teachers' and State Employees' Retirement System and the Board of Trustees of the~~  
11 ~~Local Governmental Employees' Retirement System.~~ the Supplemental Retirement  
12 Board of Trustees established in G.S. 135-96. The Department of State Treasurer and  
13 the Board of Trustees shall create a Supplemental Retirement Income Plan as of January  
14 1, 1985, to be administered under the provisions of this Article."

15 **SECTION 2.** Article 5 of Chapter 135 of the General Statutes is amended by  
16 adding a new section to read:

17 "**§ 135-96. Supplemental Retirement Board of Trustees.**

18 (a) The Supplemental Retirement Board of Trustees is established to administer  
19 the Supplemental Retirement Income Plan established under the provisions of this  
20 Article and the North Carolina Public Employee Deferred Compensation Plan  
21 established under G.S. 143B-426.24.

22 (b) The Board consists of nine voting members, as follows:

- 23 (1) Six persons appointed by the Governor who have experience in  
24 finance and investments, one of whom shall be a State employee;  
25 (2) One person appointed by the General Assembly upon the  
26 recommendation of the Speaker of the House of Representatives;  
27 (3) One person appointed by the General Assembly upon the  
28 recommendation of the President Pro Tempore of the Senate; and  
29 (4) The State Treasurer, ex officio, who shall be the Chair.

1       (c) The initial appointments by the General Assembly and two of the Governor's  
2 initial appointments shall be for one-year terms. The remainder of the initial  
3 appointments shall be for two-year terms. At the expiration of these initial terms,  
4 appointments shall be for two years and shall be made by the appointing authorities  
5 designated in subsection (b) of this section. A member shall continue to serve until the  
6 member's successor is duly appointed, but a holdover under this provision does not  
7 affect the expiration date of the succeeding term. No member of the Board may serve  
8 more than three consecutive two-year terms.

9       (d) Other than ex officio members, members appointed by the Governor shall  
10 serve at the Governor's pleasure. An ex officio member may designate in writing, filed  
11 with the Board, any employee of the member's department to act at any meeting of the  
12 Board from which the member is absent, to the same extent that the member could act if  
13 present in person at such meeting."

14       **SECTION 3.** G.S. 143B-426.24 reads as rewritten:

15       "**§ 143B-426.24. Board of Trustees of the North Carolina Public Employee**  
16 **Deferred Compensation Plan.**

17       (a) The Governor may, by Executive Order, establish a Board of Trustees of the  
18 North Carolina Public Employee Deferred Compensation Plan, which when established  
19 shall be constituted an agency of the State of North Carolina within the Department of  
20 State Treasurer. The Board shall create, establish, implement, coordinate and administer  
21 a Deferred Compensation Plan for employees of the State, any county or municipality,  
22 the North Carolina Community College System, and any political subdivision of the  
23 State. Until so established, the Board heretofore established pursuant to Executive Order  
24 XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore  
25 established shall continue until a new plan is established. Effective July 1, 2008, the  
26 Plan shall be administered by the Supplemental Retirement Board of Trustees  
27 established under G.S. 135-96.

28       ~~(b) The Board shall consist of seven voting members, as follows:~~

29       ~~(1) Three persons shall be appointed by the Governor who shall have~~  
30 ~~experience with taxation, finance and investments, one of whom shall~~  
31 ~~be a State employee;~~

32       ~~(2) One member shall be appointed by the General Assembly upon~~  
33 ~~recommendation of the Speaker of the House of Representatives under~~  
34 ~~G.S. 120-121;~~

35       ~~(3) One member shall be appointed by the General Assembly upon~~  
36 ~~recommendation of the President Pro Tempore of the Senate under~~  
37 ~~G.S. 120-121;~~

38       ~~(4) The Secretary of Administration, ex officio; and~~

39       ~~(5) The State Treasurer, ex officio, chairman.~~

40       ~~(c) General Assembly appointments shall serve two year terms. A member shall~~  
41 ~~continue to serve until his successor is duly appointed but a holdover under this~~  
42 ~~provision does not affect the expiration date of the succeeding term. No member of the~~  
43 ~~Board may serve more than three consecutive two year terms.~~

1       ~~(d) In case of a vacancy on the Board before the expiration of a member's term, a~~  
2 ~~successor shall be appointed within 30 days of the vacancy for the remainder of the~~  
3 ~~unexpired term by the appropriate official pursuant to subsection (b). Vacancies in~~  
4 ~~legislative appointments shall be filled under G.S. 120-122.~~

5       ~~(e) Other than ex officio members, members appointed by the Governor shall~~  
6 ~~serve at his pleasure.~~

7       ~~(f) Any ex officio member may designate in writing, filed with the Board, any~~  
8 ~~employee of his department to act at any meeting of the Board from which the member~~  
9 ~~is absent, to the same extent that the member could act if present in person at such~~  
10 ~~meeting.~~

11       (g) It shall be the duty of the Supplemental Retirement Board ~~when established~~ to  
12 review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2  
13 and Executive Order XII to include, but not be limited to, such contracts, agreements or  
14 arrangements pertaining to the administrative services and the investment of deferred  
15 funds under the Plan for the purpose of recommending continuation of or changes to  
16 such contracts, agreements or arrangements.

17       (h) It shall be the duty of the Supplemental Retirement Board to devise a uniform  
18 Deferred Compensation Plan for teachers and employees, which shall include a  
19 reasonable number of options to the teacher or employee, for the investment of deferred  
20 funds, among which may be life insurance, fixed or variable annuities and retirement  
21 income contracts, regulated investment trusts, pooled investment funds managed by the  
22 Board or its designee, or other forms of investment approved by the Board, always in  
23 such form as will assure the desired tax treatment of such funds. The Board may alter,  
24 revise and modify the Plan from time to time to improve the Plan or to conform to and  
25 comply with requirements of State and federal laws and regulations relating to the  
26 deferral of compensation of teachers and public employees generally.

27       (h1) Notwithstanding any other law, an employee of any county or municipality,  
28 an employee of the North Carolina Community College System, or an employee of any  
29 political subdivision of the State may participate in any 457 Plan adopted by the State,  
30 with the consent of the Supplemental Retirement Board and with the consent of the  
31 proper governing authority of such county, municipality, community college, or  
32 political subdivision of the State where such employee is employed.

33       (i) The Supplemental Retirement Board is authorized to delegate the  
34 performance of such of its administrative duties as it deems appropriate including  
35 coordination, administration, and marketing of the Plan to teachers and employees. Prior  
36 to entering into any contract with respect to such administrative duties, it shall seek  
37 bids, hold public hearings and in general take such steps as are calculated by the Board  
38 to obtain competent, efficient and worthy services for the performance of such  
39 administrative duties.

40       (j) The Supplemental Retirement Board may acquire investment vehicles from  
41 any company duly authorized to conduct such business in this State or may establish,  
42 alter, amend and modify, to the extent it deems necessary or desirable, a trust for the  
43 purpose of facilitating the administration, investment and maintenance of assets  
44 acquired by the investment of deferred funds. All assets of the Plan, including all

1 deferred amounts, property and rights purchased with deferred amounts, and all income  
2 attributed thereto shall be held in trust for the exclusive benefit of the Plan participants  
3 and their beneficiaries.

4 ~~(k) Members of the Board, who are not officers or employees of the State, shall~~  
5 ~~receive per diem and necessary travel and subsistence in accordance with the provisions~~  
6 ~~of G.S. 138-5, funded as provided in subsection (m) hereof.~~

7 ~~(l) All clerical and other services and personnel required by the Board shall be~~  
8 ~~supplied by the Department of State Treasurer, funded as provided in subsection (m)~~  
9 ~~hereof.~~

10 (m) Investment of deferred funds shall not be unreasonably delayed, and in no  
11 case shall the investment of deferred funds be delayed more than 30 days. The  
12 Supplemental Retirement Board may accumulate such funds pending investment, and  
13 the interest earned on such funds pending investment shall be available to and may be  
14 spent in the discretion of the Board only for the reasonable and necessary expenses of  
15 the Board. The State Treasurer is authorized to prescribe guidelines for the expenditure  
16 of such funds by the Board. From time to time as the Board may direct, funds not  
17 required for such expenses may be used to defray administrative expenses and fees  
18 which would otherwise be required to be borne by teachers and employees who are then  
19 participating in the Plan.

20 ~~(n) A majority of the Board shall constitute a quorum for the transaction of~~  
21 ~~business.~~

22 (o) It is intended that the provisions of this Part shall be liberally construed to  
23 accomplish the purposes provided for herein."

24 **SECTION 4.** Notwithstanding the provisions of G.S. 135-91,  
25 G.S. 143B-426.24, or any other provision of law, effective from July 1, 2008, through  
26 June 30, 2009, the North Carolina 401(k) Plan and the North Carolina Public Employee  
27 Deferred Compensation Plan shall be administered by a transitional Board of Trustees.  
28 The transitional Board of Trustees shall consist of nine members, as follows:

- 29 (1) The two members of the Board of Trustees of the North Carolina  
30 401(k) Plan who serve by virtue of their appointment to the Board of  
31 Trustees of the Teachers' and State Employees' Retirement System by  
32 the General Assembly pursuant to G.S. 135-6(b)(4);
- 33 (2) The two members of the Board of Trustees of the North Carolina  
34 Deferred Compensation Plan appointed by the General Assembly  
35 pursuant to G.S. 143B-426.24(2) and (3);
- 36 (3) Two of the members of the Board of Trustees of the North Carolina  
37 401(k) Plan who serve by virtue of their appointment to the Board of  
38 Trustees of the Teachers' and State Employees' Retirement System by  
39 the Governor pursuant to G.S. 135-6(b)(3), to be determined by the  
40 Governor;
- 41 (4) Two of the members of the Board of Trustees of the North Carolina  
42 Deferred Compensation Plan appointed by the Governor pursuant to  
43 G.S. 143B-426.24(1), to be determined by the Governor;
- 44 (5) The State Treasurer, ex officio, who shall serve as Chair.

- 1                   **SECTION 5.** Sections 1 through 3 of this act become effective July 1, 2009.  
2   The remainder of this act becomes effective July 1, 2008.