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SENATE DRS85123-LL-93A (3/7)

Short Title: Treasurer's Investments.

(Public)

Sponsors: Senator Hise (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE STATE TREASURER'S
3 INVESTMENT AUTHORITY WITH REGARD TO SPECIAL FUNDS HELD BY THE
4 TREASURER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 147-69.2(b) reads as rewritten:

7 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
8 in subsection (a) of this section in excess of the amount required to meet the current needs and
9 demands on such funds. The State Treasurer may invest the funds as provided in this
10 subsection. If an investment was authorized by this subsection at the time the investment was
11 made or contractually committed to be made, then that investment shall continue to be
12 authorized by this subsection, and none of the percentage or other limitation on investments set
13 forth in this subsection shall be construed to require the State Treasurer to subsequently dispose
14 of the investment or fail to honor any contractual commitments as a result of changes in market
15 values, ratings, or other investment qualifications. For purposes of computing market values on
16 which percentage limitations on investments in this subsection are based, all investments shall
17 be valued as of the last date of the most recent fiscal quarter.

18 (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).

19 (2) General obligations of other states of the United States.

20 (3) General obligations of cities, counties and special districts in North Carolina.

21 (4) Obligations of any company, other organization or legal entity incorporated
22 or otherwise created or located within or outside the United States, including
23 obligations that are convertible into equity securities, if the obligations bear
24 one of the four highest ratings of at least one nationally recognized rating
25 service when acquired.

26 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.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
28 bear ratings by nationally recognized rating services as provided in
29 G.S. 147-69.2(b)(4).

30 (6a) In addition to the limitations and requirements with respect to the
31 investments of the Retirement Systems set forth in this subsection, the State
32 Treasurer shall select investments of the assets of the Retirement Systems
33 such that investments made pursuant to subdivisions (b)(1) through (6) of
34 this section shall at all times equal or exceed twenty percent (20%) of the
35 market value of all invested assets of the Retirement Systems.



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- 1 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may
2 be made directly by the State Treasurer or through contractual arrangements
3 in which the investment manager has full and complete discretion and
4 authority to invest assets specified in such arrangements in investments
5 authorized by subdivisions (b)(1) through (6) of this section, provided for
6 each indirect investment, the investment manager has assets under
7 management of at least one hundred million dollars (\$100,000,000).
- 8 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),
9 they may be invested in ~~obligations and other obligations~~, debt securities, and
10 asset-backed securities, whether considered debt or equity, including ~~debt~~
11 obligations and securities convertible into other securities, that do not meet
12 the requirements of any of subdivisions (b)(1) through (6) of this section nor
13 subdivision (b)(7) of this section, provided such investments are made
14 through investment companies registered under the Investment Company
15 Act of 1940, individual, common, or collective trust funds of banks and trust
16 companies, group trusts and limited partnerships, limited liability companies
17 or other limited liability investment vehicles that invest primarily in
18 investments authorized by this subdivision and through contractual
19 arrangements in which the investment manager has full and complete
20 discretion and authority to invest assets specified in such arrangements in
21 investments authorized by this subdivision, provided the investment
22 manager for each investment pursuant to this subdivision has assets under
23 management of at least one hundred million dollars (\$100,000,000) and
24 provided that the investments authorized under this subdivision shall not
25 exceed ~~five percent (5%) of the market value of all invested assets of the~~
26 ~~Retirement Systems~~ the limitations set forth in subdivision (10a) of this
27 subsection.
- 28 (7) With respect to Retirement Systems' assets referred to in subdivision (8) of
29 this subsection, (i) insurance contracts that provide for participation in
30 individual or pooled separate accounts of insurance companies, (ii) group
31 trusts, (iii) individual, common, or collective trust funds of banks and trust
32 companies, (iv) real estate investment trusts, (v) investment companies
33 registered under the Investment Company Act of 1940, ~~and~~ (vi) limited
34 partnerships, limited liability companies, or other limited liability investment
35 ~~vehicles; vehicles~~, and (vii) contractual arrangements in which the
36 investment manager has discretion and authority to invest assets specified in
37 such arrangements in investments authorized by this subsection; provided
38 the investment manager has assets under management of at least one
39 hundred million dollars (\$100,000,000); provided such investment assets are
40 managed primarily for the purpose of investing in or owning real estate or
41 related debt ~~financing~~ financing, excluding asset-backed financing, located
42 within or outside the United States; and provided that the investments
43 authorized by this subdivision shall not exceed ~~ten percent (10%) of the~~
44 ~~market value of all invested assets of the Retirement Systems~~ the limitations
45 set forth in subdivision (10a) of this subsection.
- 46 (8) With respect to assets of the Teachers' and State Employees' Retirement
47 System, the Consolidated Judicial Retirement System, the Firemen's and
48 Rescue Workers' Pension Fund, the Local Governmental Employees'
49 Retirement System, the Legislative Retirement System, the North Carolina
50 National Guard Pension Fund, and the Retiree Health Benefit Fund
51 (hereinafter referred to collectively as the Retirement Systems), and assets

1 invested pursuant to subdivision (b2) of this section, they may be invested in
2 equity securities traded on a public securities exchange or market organized
3 and regulated pursuant to the laws of the jurisdiction of such exchange or
4 market and issued by any company incorporated or otherwise created or
5 located within or outside the United States; provided the investments meet
6 the conditions of this subdivision. The investments authorized for the
7 Retirement Systems under this subdivision cannot exceed sixty-five percent
8 (65%) of the market value of all invested assets of the Retirement Systems.

9 The assets authorized under this subdivision may be invested directly by
10 the State Treasurer in any equity securities authorized by this subdivision for
11 the primary purpose of approximating the movements of a nationally
12 recognized and published market benchmark ~~index. No more than one and~~
13 ~~one-half percent (1.5%) of the market value of the Retirement Systems'~~
14 ~~assets that may be invested directly under this subdivision can be invested in~~
15 ~~the stock of a single corporation, index within one-half percent (0.50%) per~~
16 ~~annum. The total number of shares in any single corporation in which the~~
17 ~~Treasurer directly invests and the total number of shares in that single~~
18 ~~corporation cannot exceed eight percent (8%) of the issued and outstanding~~
19 ~~stock of that corporation.~~

20 So long as each investment manager has assets under management of at
21 least one hundred million dollars (\$100,000,000), the assets authorized under
22 this subdivision may also be invested through any of the following:

- 23 a. Investment companies registered under the Investment Company Act
24 of 1940; individual, common, or collective trust funds of banks and
25 trust companies; and group trusts that invest primarily in investments
26 authorized by this subdivision.
- 27 b. Limited partnerships, limited liability companies, or other limited
28 liability investment vehicles that are not publicly traded and invest
29 primarily in investments authorized by this subdivision. Investments
30 under this sub-subdivision shall not exceed ~~six and one-half percent~~
31 ~~(6.5%) of the market value of all invested assets of the Retirement~~
32 ~~Systems; the limitations set forth in subdivision (10a) of this~~
33 ~~subsection.~~
- 34 c. Contractual arrangements in which investment managers have full
35 and complete discretion and authority to invest assets specified in
36 such contractual arrangements in investments authorized by this
37 subdivision.

- 38 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
39 of this subsection, they may be invested in interests in limited partnerships,
40 limited liability companies, or other limited liability investment vehicles that
41 are not publicly traded if the primary purpose of the limited partnership,
42 limited liability company, or other limited liability investment vehicle is (i)
43 to invest in private equity, or corporate buyout transactions, within or
44 outside the United States or (ii) to engage in other strategies not expressly
45 authorized by any other subdivision of this subsection. The amount invested
46 under this subdivision shall not exceed ~~seven and one-half percent (7.5%) of~~
47 ~~the market value of all invested assets of the Retirement Systems; the~~
48 ~~limitations set forth in subdivision (10a) of this subsection.~~

- 49 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
50 of this subsection, they may be invested in inflation-linked bonds,
51 timberlands, commodities, and other ~~assets~~ investments that are acquired by

1 the Treasurer for the primary purpose of providing protection against risks
2 associated with inflation, provided such investments are made through
3 investment companies registered under the Investment Company Act of
4 1940, individual, common or collective trust funds of banks and trust
5 companies, group trusts and limited partnerships, limited liability companies
6 or other limited liability investment vehicles that invest primarily in
7 investments authorized by this subdivision and through contractual
8 arrangements in which the investment manager has full and complete
9 discretion and authority to invest assets specified in such arrangements in
10 investments authorized by this subdivision, provided the investment
11 manager for each investment pursuant to this subdivision has assets under
12 management of at least one hundred million dollars (\$100,000,000) and
13 provided that the investments authorized under this subdivision shall not
14 exceed five percent (5%) of the market value of all invested assets of the
15 Retirement Systems. ~~Notwithstanding anything in this subsection to the~~
16 ~~contrary, the investments authorized by this subdivision shall not be~~
17 ~~included in any subdivision other than this subdivision for purposes of the~~
18 ~~percentage investment limitations therein or otherwise.~~ the limitations set
19 forth in subdivision (10a) of this subsection.

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

21 (10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of
22 this subsection, the market value of any of subdivision (6c) or (7),
23 sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this
24 subsection shall not exceed fifteen percent (15%) of the market value of all
25 invested assets of the Retirement Systems; and the aggregate market value of
26 all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b.
27 of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not
28 exceed forty percent (40%) of the market value of all invested assets of the
29 Retirement Systems. In the event that the market value of any of subdivision
30 (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a)
31 of this subsection increases during a fiscal year by an amount greater than
32 three percent (3%) of the market value of all invested assets of the
33 Retirement Systems as of the prior fiscal year end, then the quarterly report
34 provided by the Treasurer pursuant to G.S. 147-68(d1) shall describe how
35 that increase complies with the duties described in G.S. 147-69.7 and the
36 consequent expected impact on the risk profile of the Retirement Systems'
37 assets.

38 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina
39 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed
40 twenty-five million dollars (\$25,000,000), that have a final maturity not later
41 than October 1, 2014. The obligations shall bear interest at the rate set by the
42 State Treasurer. No commitment to purchase obligations may be made
43 pursuant to this subdivision after September 1, 1993, and no obligations may
44 be purchased after September 1, 1994. In the event of a loss to the Escheat
45 Fund by reason of an investment made pursuant to this subdivision, it is the
46 intention of the General Assembly to hold the Escheat Fund harmless from
47 the loss by appropriating to the Escheat Fund funds equivalent to the loss.

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

- 1 (12) With respect to assets of the Escheat Fund, in addition to those investments
2 authorized by subdivisions (1) through (6) of this subsection, up to twenty
3 percent (20%) of such assets may be invested in the investments authorized
4 under subdivisions (7) through (9) of this subsection, notwithstanding the
5 percentage limitations imposed on the Retirement Systems' investments
6 under those subdivisions."

7 **SECTION 2.** G.S. 147-69.7 reads as rewritten:

8 "**§ 147-69.7. Discharge of duties to Retirement Systems.**

9 (a) The Treasurer shall discharge his or her duties with respect to the ~~Teachers' and~~
10 ~~State Employees' Retirement System, the Consolidated Judicial Retirement System, the~~
11 ~~Firemen's and Rescue Squad Workers' Pension Fund, the Local Governmental Employees'~~
12 ~~Retirement System, the Legislative Retirement System, and the North Carolina National Guard~~
13 ~~Pension Fund (hereinafter referred to collectively as the Retirement Systems)~~Retirement
14 Systems enumerated in G.S. 147-69.2(b)(8) as follows:

- 15 (1) Solely in the interest of the participants and beneficiaries.
16 (2) For the exclusive purpose of providing benefits to participants and
17 beneficiaries and paying reasonable expenses of administering the
18 Retirement Systems.
19 (3) With the care, skill, and caution under the circumstances then prevailing
20 which a prudent person acting in a like capacity and familiar with those
21 matters would use in the conduct of an activity of like character and purpose.
22 (4) Impartially, taking into account any differing interests of participants and
23 beneficiaries.
24 (5) Incurring only costs that are appropriate and reasonable.
25 (6) In accordance with a good-faith interpretation of the law governing the
26 Retirement Systems.

27 (b) In investing and managing assets of the Retirement Systems pursuant to subsection
28 (a) of this section, the Treasurer:

- 29 (1) Shall consider the following circumstances:
30 a. General economic conditions.
31 b. The possible effect of inflation or deflation.
32 c. The role that each investment or course of action plays within the
33 overall portfolio of the Retirement Systems.
34 d. The expected total return from income and the appreciation of
35 capital.
36 e. Needs for liquidity, regularity of income, and preservation or
37 appreciation of capital.
38 f. The adequacy of funding for the Retirement Systems based on
39 reasonable actuarial factors.
40 (2) Shall diversify the investments of the Retirement Systems unless the
41 Treasurer reasonably determines that, because of special circumstances, it is
42 clearly prudent not to do so.
43 (3) Shall make a reasonable effort to verify facts relevant to the investment and
44 management of assets of the Retirement Systems.
45 (4) May invest in any kind of property or type of investment consistent with the
46 provisions of Article 6 of Chapter 146 of the General Statutes.
47 (5) May consider benefits created by an investment in addition to investment
48 return only if the Treasurer determines that the investment providing these
49 collateral benefits would be prudent even without collateral benefits.

1 (c) Compliance by the Treasurer with this section must be determined in light of the
2 facts and circumstances existing at the time of the Treasurer's decision or action and not by
3 hindsight.

4 (d) The Treasurer's investment and management decisions must be evaluated not in
5 isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of
6 an overall investment strategy having risk and return objectives reasonably suited to the
7 Retirement Systems."

8 **SECTION 3.** This act becomes effective July 1, 2013.