

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 264
Senate Pensions & Retirement and Aging Committee Substitute Adopted 7/15/15**

Short Title: Community Colleges 403(b) Plan.-AB

(Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED
AN ACT TO ALLOW COMMUNITY COLLEGES TO PARTICIPATE IN THE 403(B)
SUPPLEMENTAL RETIREMENT PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-25 reads as rewritten:

**"§ 115D-25. Purchase of annuity or retirement income contracts for ~~employees~~employees
by local boards of trustees.**

Notwithstanding any provision of law relating to salaries or salary schedules for the pay of faculty members, administrative officers, or any other employees of community colleges, the board of trustees of any of the above institutions may authorize the finance officer or agent of same to enter into annual contracts with any of the above officers, agents and employees which provide for reductions in salaries below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said officer, agent or employee. An officer, agent or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the 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 officer, agent or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to in this section shall be effected under any necessary regulations and procedures adopted by the State Board of Community Colleges and on forms prepared by the State Board of Community Colleges. Notwithstanding any other provisions of this section or law, the amount by which the salary of an officer, agent or 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, and in computing and providing matching funds for retirement system purposes.

In lieu of the annuity and related contracts provided for under this section, interests in custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections of the Internal Revenue Code of 1986 as amended may be purchased by local boards of trustees for the benefit of qualified employees under this section with the funds derived from the reduction in the salaries of such employees."

SECTION 2. Article 2 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-25.4. Department of State Treasurer-sponsored 403(b) option.



1 (a) In addition to the opportunities for local boards of trustees to offer section 403(b) of
2 the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees
3 under G.S. 115D-25, local boards of trustees may also offer the "North Carolina Public School
4 Teachers' and Professional Educators' Investment Plan" as operated by the Department of State
5 Treasurer.

6 (b) The criteria in this subsection apply to the Department of State Treasurer's 403(b)
7 offerings to employees of local boards of trustees under this section:

8 (1) Annuity contracts, trust accounts, and/or custodial accounts shall be
9 administered by a qualified third-party administrator that shall, under written
10 agreement with the Department of State Treasurer, provide custodial,
11 record-keeping, and administrative services. The third-party administrator
12 may also be the selected vendor for the North Carolina Public School
13 Teachers' and Professional Educators' Investment Plan.

14 For local boards of trustees as employers choosing to participate in the
15 North Carolina Public School Teachers' and Professional Educators'
16 Investment Plan, the third-party administrator shall, at a minimum, provide
17 the following:

18 a. Maintain a written plan document.

19 b. Review hardship withdrawal requests, loan requests, and other
20 disbursements permitted under section 403(b) of the Internal
21 Revenue Code of 1986.

22 c. Maintain specimen salary reduction agreements for the employer and
23 employees of that employer to initiate payroll deferrals.

24 d. Monitor maximum contributions.

25 e. Coordinate responses to the Internal Revenue Service in any case of
26 an IRS audit.

27 f. Generate educational communication materials to employees
28 concerning the enrollment process, program eligibility, and
29 investment options.

30 g. Maintain internal reports to ensure compliance with section 403(b) of
31 the Internal Revenue Code and Title 26 of the Code of Federal
32 Regulations.

33 h. Provide compliance monitoring/oversight for all 403(b) plans
34 established under G.S. 115D-25 within each participating local board
35 of trustees plan by creating and establishing the necessary
36 connections and processes with existing and future vendors.

37 i. Keep an updated schedule of vendor fees and commissions as to the
38 Department's statewide plan.

39 (2) Governance and oversight of the North Carolina Public School Teachers' and
40 Professional Educators' Investment Plan will be performed by the
41 Department of State Treasurer and the Board of Trustees for the North
42 Carolina Supplemental Retirement Plans established pursuant to
43 G.S. 135-96. Because of the administrative and record-keeping duties
44 enumerated in subdivision (1) of this subsection, any existing vendor of a
45 403(b) with a participating employer must either agree to share data with the
46 State's 403(b) vendor under this provision (so as to permit oversight over
47 contribution limits, loans, and hardship withdrawals) or be directed by the
48 participating employer to cease accepting new contributions, loans, and
49 hardship withdrawals.

50 (3) Investment options shall be solely determined by the Department of State
51 Treasurer and Board of Trustees for the North Carolina Supplemental

- 1 Retirement Plans consistent with section 403(b) of the Internal Revenue
2 Code of 1986, as amended.
- 3 (4) Investment staff of the Department of State Treasurer may make
4 recommendations to the State Treasurer and Board of Trustees for the North
5 Carolina Supplemental Retirement Plans as to appropriate investment
6 options. The State Treasurer and Board of Trustees shall have sole
7 responsibility for the selection of the service provider for the North Carolina
8 Public School Teachers' and Professional Educators' Investment Plan.
- 9 (5) All contributions made in accordance with the provisions of section 403(b)
10 of the Internal Revenue Code of 1986, as amended, and this section shall be
11 remitted directly to the administrator and held by the administrator in a
12 custodial account on behalf of each participating employee. Any investment
13 gains or losses shall be credited to those accounts. The forms of payment and
14 disbursement procedures shall be consistent with those generally offered by
15 similar annuity contracts, trust accounts, and custodial accounts and
16 applicable federal and State statutes governing those contracts and accounts.
- 17 (6) Any local board of trustees may elect to make contributions to the
18 employee's account on behalf of the employee. The local board of trustees
19 shall take whatever action is necessary to implement this section.
- 20 (7) The design and administration of annuity contracts, trust accounts, and
21 custodial accounts under this provision shall comply with all applicable
22 provisions of the Internal Revenue Code of 1986, as amended."

23 **SECTION 3.** This act becomes effective October 1, 2015.