

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 785
Committee Substitute Favorable 5/31/05

Short Title: Public Hospital Investment Authority. (Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE INVESTMENT AUTHORITY OF PUBLIC HOSPITALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-39 reads as rewritten:

"§ 159-39. Special regulations pertaining to public hospitals.

...

(g) A public hospital may deposit or invest at interest all or part of its cash balance pursuant to ~~G.S. 159-30.~~ G.S. 159-30 and may deposit any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, with the State Treasurer for investment pursuant to G.S. 147-69.2.

..."

SECTION 2. 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:

- (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,

- 1 (15) The Public School Insurance Fund,
2 (16) The Liability Insurance Trust Fund,
3 (17) Trust funds of The University of North Carolina and its constituent
4 institutions deposited with the State Treasurer pursuant to
5 G.S. 116-36.1,
6 (17a) North Carolina Veterans Home Trust Fund,
7 (17b) North Carolina National Guard Pension Fund,
8 (17c) Retiree Health Premium Reserve Account, ~~and~~
9 (17d) The Election ~~Fund~~, Fund,
10 (17e) Funds deposited with the State Treasurer by public hospitals pursuant
11 to G.S.159-39(g), and
12 (18) Any other special fund created by or pursuant to law for purposes
13 other than meeting appropriations made pursuant to the Executive
14 Budget Act.
- 15 (b) It shall be the duty of the State Treasurer to invest the cash of the funds
16 enumerated in subsection (a) of this section in excess of the amount required to meet the
17 current needs and demands on such funds, selecting from among the following:
- 18 (1) Any of the 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
21 Carolina.
22 (4) Obligations of any company, other organization or legal entity
23 incorporated or otherwise created or located within or outside the
24 United States if the obligations bear one of the four highest ratings of
25 at least one nationally recognized rating service and do not bear a
26 rating below the four highest by any nationally recognized rating
27 service which rates the particular security.
28 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
29 (6) Asset-backed securities (whether considered debt or equity) provided
30 they bear ratings by nationally recognized rating services as provided
31 in G.S. 147-69.2(b)(4) and that they do not bear a rating below the four
32 highest by any nationally recognized rating service that rates the
33 particular securities.
34 (7) With respect to Retirement Systems' assets referred to in
35 G.S. 147-69.2(b)(8), (i) insurance contracts that provide for
36 participation in individual or pooled separate accounts of insurance
37 companies, (ii) group trusts, (iii) individual, common, or collective
38 trust funds of banks and trust companies, (iv) real estate investment
39 trusts, and (v) limited partnerships, whether described as limited
40 liability partnerships or limited liability companies; provided the
41 investment manager has assets under management of at least one
42 hundred million dollars (\$100,000,000); provided such investment
43 assets are managed primarily for the purpose of investing in or owning
44 real estate or related debt financing located within or outside the

1 United States; and provided that the investment authorized by this
2 subsection shall not exceed ten percent (10%) of the market value of
3 all invested assets of the Retirement Systems.

- 4 (8) With respect to assets of the Teachers' and State Employees'
5 Retirement System, the Consolidated Judicial Retirement System, the
6 Firemen's and Rescue Workers' Pension Fund, the Local
7 Governmental Employees' Retirement System, the Legislative
8 Retirement System, ~~and~~ the North Carolina National Guard Pension
9 Fund (hereinafter referred to collectively as the Retirement Systems),
10 and assets invested pursuant to subdivision (b2) of this section, they
11 may be invested in preferred or common stocks issued by any
12 company incorporated or otherwise created or located within or
13 outside the United States provided the investments meet the conditions
14 of this subdivision.

15 The investments authorized under this subdivision cannot exceed
16 sixty-five percent (65%) of the market value of all invested assets of
17 the Retirement Systems. Up to five percent (5%) of the amount that
18 may be invested under this subdivision may be invested in the stocks
19 or shares of a diversified investment company registered under the
20 "Investment Company Act of 1940" that has total assets of at least fifty
21 million dollars (\$50,000,000).

22 The assets authorized for the Retirement Systems under this
23 subdivision can be invested through individual, common, or collective
24 trust funds of banks, trust companies, and group trust funds of
25 investment advisory companies so long as the investment manager has
26 assets under management of at least one hundred million dollars
27 (\$100,000,000).

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

- 30 a. The common stock or preferred stock of such corporation is
31 registered on a national securities exchange as provided in the
32 Federal Securities Exchange Act or quoted through the National
33 Association of Securities Dealers' Automated Quotations
34 (NASDAQ) system.
- 35 b. The corporation has paid a cash dividend on its common stock
36 in each year of the 5-year period next preceding the date of
37 investment and the aggregate net earnings available for
38 dividends on the common stock of the corporation for the whole
39 of that period have been at least equal to the amount of the
40 dividends paid.
- 41 c. In applying the dividend and earnings test under this section to
42 any issuing, assuming, or guaranteeing corporation, if the
43 corporation acquired its property or any substantial part thereof
44 within a five-year period immediately preceding the date of

1 investment by consolidation, merger, or by the purchase of all
2 or a substantial portion of the property of any other corporation
3 or corporations, or acquired the assets of any unincorporated
4 business enterprise by purchase or otherwise, the dividends and
5 net earnings of the several predecessor or constituent
6 corporations or enterprises shall be consolidated and adjusted so
7 as to ascertain whether or not the applicable requirements of
8 this subdivision have been complied with.

9 No more than one and one-half percent (1 1/2%) of the market
10 value of the Retirement Systems' assets that may be invested under this
11 subdivision can be invested in the stock of a single corporation, and
12 the total number of shares in that single corporation cannot exceed
13 eight percent (8%) of the issued and outstanding stock of that
14 corporation.

15 d. to f. Repealed by Session Laws 2001-444, s. 2, effective
16 October 1, 2001.

17 g. That investments may be made in securities convertible into
18 common stocks issued by any such company, if such securities
19 bear one of the four highest ratings of at least one nationally
20 recognized rating service and do not bear a rating below the
21 four highest by any nationally recognized rating service which
22 may then rate the particular security.

23 (9) With respect to Retirement Systems' assets, as defined in subdivision
24 (b)(8) of this subsection, they may be invested in limited partnership
25 interests in a partnership or in interests in a limited liability company if
26 the primary purpose of the partnership or limited liability company is
27 to invest in public or private debt, public or private equity, or corporate
28 buyout transactions, within or outside the United States. The amount
29 invested under this subdivision shall not exceed five percent (5%) of
30 the market value of all invested assets of the Retirement Systems.

31 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.
32 2.

33 (11) With respect to assets of the Escheat Fund, obligations of the North
34 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
35 not to exceed twenty-five million dollars (\$25,000,000), that have a
36 final maturity not later than July 1, 2005. The obligations shall bear
37 interest at the rate set by the State Treasurer. No commitment to
38 purchase obligations may be made pursuant to this subdivision after
39 September 1, 1993, and no obligations may be purchased after
40 September 1, 1994. In the event of a loss to the Escheat Fund by
41 reason of an investment made pursuant to this subdivision, it is the
42 intention of the General Assembly to hold the Escheat Fund harmless
43 from the loss by appropriating to the Escheat Fund funds equivalent to
44 the loss.

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

15 (b2) The State Treasurer may invest funds deposited pursuant to subdivision
16 (a)(17e) of this section in any of the investments authorized under subdivisions (1)
17 through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer
18 may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and
19 may assess a reasonable fee, not to exceed 15 basis points, as a condition of
20 participation pursuant to this subsection. Funds deposited pursuant to this subsection by
21 a hospital shall remain the funds of that hospital and interest or other investment income
22 earned thereon shall be prorated and credited to the contributing hospital on the basis of
23 the amounts thereof contributed, figured according to sound accounting principles.

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

25 **SECTION 3.** This act becomes effective October 1, 2005.