

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-132
HOUSE BILL 2728**

AN ACT TO CONSOLIDATE THE BOARD OF TRUSTEES FOR THE NORTH CAROLINA 401(K) PLAN AND THE BOARD OF TRUSTEES OF THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN INTO THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES, AND CONCERNING COMPENSATION OF EMPLOYEES IN THE INVESTMENT DIVISION.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

(1) Six persons appointed by the Governor who have experience in finance and investments, one of whom shall be a State employee;

(2) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;

(3) One person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and

(4) The State Treasurer, ex officio, who shall be the Chair.

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

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

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

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

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

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

- ~~(1) Three persons shall be appointed by the Governor who shall have experience with taxation, finance and investments, one of whom shall be a State employee;~~
- ~~(2) One member shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives under G.S. 120-121;~~
- ~~(3) One member shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate under G.S. 120-121;~~
- ~~(4) The Secretary of Administration, ex officio; and~~
- ~~(5) The State Treasurer, ex officio, chairman.~~

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

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

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

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

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

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

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

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

(j) The Supplemental Retirement Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the investment of deferred funds. All assets of the Plan, including all deferred amounts, property and rights purchased with deferred amounts, and all income attributed thereto shall be held in trust for the exclusive benefit of the Plan participants and their beneficiaries.

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

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

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

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

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

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

- (1) The two members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of Trustees of the Teachers' and State Employees' Retirement System by the General Assembly pursuant to G.S. 135-6(b)(4);
- (2) The two members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the General Assembly pursuant to G.S. 143B-426.24(2) and (3);
- (3) Two of the members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of

Trustees of the Teachers' and State Employees' Retirement System by the Governor pursuant to G.S. 135-6(b)(3), to be determined by the Governor;

(4) Two of the members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the Governor pursuant to G.S. 143B-426.24(1), to be determined by the Governor;

(5) The State Treasurer, ex officio, who shall serve as Chair.

SECTION 5. In order to retain key public employees in the Investment Division, the State Treasurer is authorized to establish compensation including bonuses for the Chief Investment Officer and Investment Directors. The bonuses may be based on compensation studies conducted by a nationally recognized firm specializing in public fund investment compensation and the Pension Plan performance. The salaries and other associated benefits shall be apportioned directly from the investment program. The Treasurer shall report the bonuses paid to the Joint Legislative Commission on Governmental Operations annually.

SECTION 6. Sections 1 through 3 of this act become effective July 1, 2009. The remainder of this act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 6:08 p.m. this 28th day of July, 2008