

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1027
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Short Title: State Treasurer Venture Capital.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO STIMULATE SUBSTANTIAL GROWTH OF VENTURE CAPITAL
3 INVESTMENTS IN NORTH CAROLINA THROUGH INVESTMENTS BY THE
4 STATE TREASURER.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 147-69.1(c) is amended by adding a new subdivision to read:

7 "(7) Any of the investments authorized by G.S. 147-69.2(b)(2) through (6)
8 and (b)(9) and (10)."

9 Section 2. G.S. 147-69.2(b) reads as rewritten:

10 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
11 enumerated in subsection (a) of this section in excess of the amount required to meet the
12 current needs and demands on such funds, selecting from among the ~~following~~ following
13 in the State Treasurer's discretion:

14 (1) Any of the investments authorized by G.S. ~~147-69.1(e); 147-69.1(c),~~
15 except that assets of retirement and pension systems may not be
16 invested in the investments authorized by subdivision (9) or (10) of this
17 subsection pursuant to G.S. 147-69.1(c)(7).

18 (2) General obligations of other states of the United ~~States;~~ States.

- 1 (3) General obligations of cities, counties and special districts in North
2 ~~Carolina; Carolina.~~
- 3 (4) Obligations of any company, other organization or legal entity
4 incorporated or otherwise created or located within or ~~without~~ outside of
5 the United States if ~~such~~ the obligations bear one of the three highest
6 ratings of at least one nationally recognized rating service and do not
7 bear a rating below the three highest by any nationally recognized rating
8 service which rates the particular ~~security; security.~~
- 9 (5) Notes secured by mortgages insured by the Federal Housing
10 Administration or guaranteed by the Veterans Administration on real
11 estate located within the State of North ~~Carolina; Carolina.~~
- 12 (6) Asset-backed securities (whether considered debt or equity) provided
13 they bear ratings by nationally recognized rating services as provided in
14 G.S. 147-69.2(b)(4) and that they do not bear a rating below the three
15 highest by any nationally recognized rating service ~~which~~ that rates the
16 particular ~~securities; securities.~~
- 17 (7) With respect to Retirement Systems' assets referred to in G.S. 147-
18 69.2(b)(8), (i) insurance contracts ~~which~~ that provide for participation in
19 individual or pooled separate accounts of insurance companies, (ii)
20 group trusts, (iii) individual, ~~common~~ common, or collective trust funds
21 of banks and trust companies and (iv) real estate investment trusts;
22 provided the investment manager has assets under management of at
23 least one hundred million dollars (\$100,000,000); provided such
24 investment assets are managed primarily for the purpose of investing in
25 or owning real estate or related debt financing located in the United
26 States; and provided that the investment authorized by this subsection
27 shall not exceed ten percent (10%) of the book value of all invested
28 assets of the Retirement ~~Systems; Systems.~~
- 29 (8) With respect to assets of the Teachers' and State Employees' Retirement
30 System, the Consolidated Judicial Retirement System, the Firemen's and
31 Rescue Workers' Pension Fund, the Local Governmental Employees'
32 Retirement System, and the Legislative Retirement System (hereinafter
33 referred to collectively as the Retirement Systems), preferred or
34 common stocks issued by any company incorporated or otherwise
35 created or located within or ~~without~~ outside of the United States,
36 ~~provided~~ if all of the following conditions are met:
- 37 a. ~~That~~ The common stock or preferred stock of ~~such~~ the
38 corporation is registered on a national securities exchange as
39 provided in the Federal Securities Exchange Act or quoted
40 through the National Association of Securities Dealers'
41 Automated Quotations (NASDAQ) ~~system; system.~~
- 42 b. ~~That such~~ The corporation ~~shall have~~ has paid a cash dividend on
43 its common stock in each year of the 5-year period next

1 preceding the date of investment and the aggregate net earnings
2 available for dividends on the common stock of ~~such~~the
3 corporation for the whole of ~~such~~that period shall have been at
4 least equal to the amount of ~~such~~the dividends ~~paid~~paid.

5 c. ~~That in~~In applying the dividend and earnings test under this
6 section to any issuing, assuming, or guaranteeing corporation,
7 ~~where such corporation shall have~~if the corporation acquired its
8 property or any substantial part thereof within a five-year period
9 immediately preceding the date of investment by consolidation,
10 merger, or by the purchase of all or a substantial portion of the
11 property of any other corporation or corporations, or ~~shall have~~
12 acquired the assets of any unincorporated business enterprise by
13 purchase or otherwise, the dividends and net earnings of the
14 several predecessor or constituent corporations or enterprises
15 shall be consolidated and adjusted so as to ascertain whether or
16 not the applicable requirements of this ~~section~~subdivision have
17 been complied ~~with~~with.

18 d. ~~That the~~The book value of common and preferred stocks
19 including securities convertible into common stocks shall not
20 exceed fifty ~~per centum~~percent (50%) of the book value of all
21 invested assets of the Retirement Systems; ~~provided, further:~~
22 Systems and the following conditions must also be met:

23 1. Not more than one and one-half ~~per centum~~percent (1
24 1/2%) of the book value of ~~such~~the assets shall be
25 invested in the stock of a single ~~corporation~~and provided
26 further; corporation.

27 2. The total number of shares in a single corporation shall
28 not exceed eight ~~per centum~~percent (8%) of the issued and
29 outstanding stock of ~~such corporation~~and provided further;
30 the corporation.

31 3. ~~As used in this subdivision d. and elsewhere in this~~
32 ~~section, book value shall mean adjusted cost basis as~~
33 ~~shown on the records of the State Treasurer.~~

34 e. Up to five ~~per cent~~percent (5%) of the limits authorized in
35 subdivision d. may be invested in the stocks or shares of a
36 diversified investment company registered under the 'Investment
37 Company Act of 1940' ~~which~~that has total assets of at least fifty
38 million dollars (\$50,000,000).

39 f. ~~Individual, common~~

40 As used in this subsection, the term 'book value' means adjusted cost
41 basis as shown on the records of the State Treasurer.

42 Notwithstanding the provisions of sub-subdivisions a. through e., the
43 investments authorized in this subdivision (8) may be made in

1 individual, common, or collective trust funds of banks or trust
2 companies ~~provided that~~ if the investment manager has assets under
3 management of at least one hundred million dollars (\$100,000,000).

4 ~~g. That investments~~

5 Notwithstanding the provisions of sub-subdivisions a. through e., the
6 investments authorized in this subdivision (8) may be made in securities
7 convertible into common stocks issued by any such such a company, if
8 such the securities bear one of the four highest ratings of at least one
9 nationally recognized rating service and do not bear a rating below the
10 four highest by any nationally recognized rating service which may then
11 rate the particular security.

12 (9) ~~Obligations~~ With respect to assets other than assets of retirement or
13 pension systems, obligations, and securities of the North Carolina
14 Enterprise Corporation, or of a limited partnership in which the North
15 Carolina Enterprise Corporation is the only general partner, not to
16 exceed twenty million dollars (\$20,000,000) from all funds.

17 (10) ~~A~~ With respect to assets other than assets of retirement or pension
18 systems, a limited partnership interest in a partnership whose primary
19 purpose is to invest in venture capital or corporate buyout transactions,
20 not to exceed thirty million dollars (\$30,000,000) transactions within or
21 outside of the United States, not to exceed one hundred thirty million
22 dollars (\$130,000,000) from all funds. This maximum dollar amount
23 does not apply to or restrict the reinvestment in accordance with this
24 subdivision of any income from these investments.

25 (11) With respect to assets of the Escheat Fund, obligations of the North
26 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
27 not to exceed twenty-five million dollars (\$25,000,000), that have a
28 final maturity not later than September 1, 1999. The obligations shall
29 bear interest at the rate set by the State Treasurer. No commitment to
30 purchase obligations may be made pursuant to this subdivision after
31 September 1, 1993, and no obligations may be purchased after
32 September 1, 1994. In the event of a loss to the Escheat Fund by reason
33 of an investment made pursuant to this subdivision, it is the intention of
34 the General Assembly to hold the Escheat Fund harmless from any such
35 loss by appropriating to such Escheat Fund funds equivalent to such
36 loss."

37 Section 3. As soon as practicable, the State Treasurer shall assure that all
38 assets of retirement and pension systems described in G.S. 147-69.2(a) are no longer
39 invested in investments authorized by G.S. 147-69.2(b)(9) or (10).

40 Section 4. This act is effective when it becomes law.