

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 327*
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Short Title: Revise Treasurer Investment Authority.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
3 STATE TREASURER'S INVESTMENT AUTHORITY AND TO GIVE THE
4 STATE TREASURER MORE INVESTMENT FLEXIBILITY WITH
5 RETIREMENT SYSTEMS' ASSETS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 147-69.1 reads as rewritten:

8 **"§ 147-69.1. Investments authorized for General Fund and Highway Funds assets.**

9 (a) The Governor and Council of State, with the advice and assistance of the
10 State Treasurer, shall adopt such rules and regulations as shall be necessary and
11 appropriate to implement the provisions of this section.

12 (b) This section applies to funds held by the State Treasurer to the credit of:

13 (1) The General Fund;

14 (2) The Highway Fund and Highway Trust Fund.

15 (c) It shall be the duty of the State Treasurer to invest the cash of the funds
16 enumerated in subsection (b) 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) Obligations of the United States or obligations fully guaranteed both as
19 to principal and interest by the United States;States.

20 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit
21 Bank, ~~the Bank for Cooperatives, the Federal Intermediate Credit~~
22 ~~Bank, the Federal Land Banks,~~ the Federal Home Loan Banks, the
23 Federal Home Loan Mortgage Corporation, the Federal National
24 Mortgage Association, the Government National Mortgage
25 Association, the Federal Housing Administration, the Farmers Home
26 Administration, the United States Postal Service, the Export-Import

- 1 Bank, the International Bank for Reconstruction and Development, the
2 International Finance Corporation, the Inter-American Development
3 Bank, the Asian Development Bank, the African Development Bank,
4 and the Student Loan Marketing Association.
- 5 (3) Repurchase Agreements with respect to securities issued or guaranteed
6 by the United States government or its agencies or other securities
7 eligible for investment by this section executed by a bank or trust
8 company or by primary or other reporting dealers to the Federal
9 Reserve Bank of New York.
- 10 (4) Obligations of the State of North ~~Carolina;~~Carolina.
- 11 (5) Time deposits of financial institutions with a physical presence in
12 North Carolina for the purpose of receiving commercial or retail
13 deposits; provided that any principal amount of such deposit in excess
14 of the amount insured by the federal government or any agency
15 thereof, be fully secured by surety bonds, or be fully collateralized;
16 provided further that the rate of return or investment yield may not be
17 less than that available in the market on United States government or
18 agency obligations of comparable ~~maturity;~~maturity.
- 19 (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.
- 20 (7) Prime quality commercial paper bearing the highest rating of at least
21 one nationally recognized rating service and not bearing a rating below
22 the highest by any nationally recognized rating service which rates the
23 particular obligation.
- 24 (8) Bills of exchange or time drafts drawn on and accepted by a
25 commercial bank and eligible for use as collateral by member banks in
26 borrowing from a federal reserve bank, provided that the accepting
27 bank or its holding company is either (i) incorporated in the State of
28 North Carolina or (ii) has outstanding publicly held obligations bearing
29 the highest rating of at least one nationally recognized rating service
30 and not bearing a rating below the highest by any nationally
31 recognized rating service which rates the particular obligations.
- 32 (9) Asset-backed securities (whether considered debt or equity) provided
33 they bear the highest rating of at least one nationally recognized rating
34 service and do not bear a rating below the highest rating by any
35 nationally recognized rating service which rates the particular
36 securities.
- 37 (10) Corporate bonds and notes provided they bear the highest rating of at
38 least one nationally recognized rating service and do not bear a rating
39 below the highest by any nationally recognized rating service which
40 rates the particular obligation.
- 41 (d) Unless otherwise provided by law, the interest or income received and
42 accruing from all deposits or investments of such cash balances shall be paid into the
43 State's General Fund, except that all interest or income received and accruing on the

1 monthly balance of the Highway Fund and Highway Trust Fund shall be paid into the
2 State Highway Fund and Highway Trust Fund. The cash balances of the several funds
3 may be combined for deposit or investment purposes; and when such combined deposits
4 or investments are made, the interest or income received and accruing from all deposits
5 or investments shall be prorated among the funds in conformity with applicable law and
6 the rules and regulations adopted by the Governor and Council of State.

7 (e) The State Treasurer shall cause to be prepared quarterly statements on or
8 before the tenth day of ~~January, April, July and October~~ February, May, August, and
9 November in each year, which shall show the amount of cash on hand, the amount of
10 money on deposit, the name of each depository, and all investments for which he is in
11 any way responsible. Each quarterly statement shall be delivered to the ~~Governor and~~
12 Council of State; Governor, Council of State, President Pro Tempore of the Senate, and
13 Speaker of the House of Representatives; and a copy shall be posted in the office of the
14 State Treasurer for the information of the public.

15 (f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

16 (g) ~~If and to the extent the General Assembly shall authorize the sale of all or any~~
17 ~~part of the stock owned by the State in the North Carolina Railroad Company or the~~
18 ~~Atlantic and North Carolina Railroad Company, the proceeds of any sale shall be~~
19 ~~separately accounted for and invested as expressly directed by the General Assembly,~~
20 ~~but in the absence of any express direction as to investment, the proceeds may be~~
21 ~~invested as authorized by this section."~~

22 **SECTION 2.** G.S. 147-69.2(b) reads as rewritten:

23 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
24 enumerated in subsection (a) of this section in excess of the amount required to meet the
25 current needs and demands on such funds, selecting from among the following:

- 26 (1) Any of the investments authorized by ~~G.S. 147-69.1(e);~~
27 G.S. 147-69.1(c)(1)-(7).
- 28 (2) General obligations of other states of the United ~~States;~~ States.
- 29 (3) General obligations of cities, counties and special districts in North
30 ~~Carolina;~~ Carolina.
- 31 (4) Obligations of any company, other organization or legal entity
32 incorporated or otherwise created or located within or ~~without~~ outside
33 the United States if ~~such~~ the obligations bear one of the ~~three-four~~
34 highest ratings of at least one nationally recognized rating service and
35 do not bear a rating below the ~~three-four~~ highest by any nationally
36 recognized rating service which rates the particular ~~security;~~ security.
- 37 (5) ~~Notes secured by mortgages insured by the Federal Housing~~
38 ~~Administration or guaranteed by the Veterans Administration on real~~
39 ~~estate located within the State of North Carolina;~~
- 40 (6) Asset-backed securities (whether considered debt or equity) provided
41 they bear ratings by nationally recognized rating services as provided
42 in G.S. 147-69.2(b)(4) and that they do not bear a rating below the

1 ~~three-four~~ highest by any nationally recognized rating service ~~which~~
2 ~~that~~ rates the particular ~~securities;~~ securities.
3 (7) With respect to Retirement Systems' assets referred to in G.S.
4 147-69.2(b)(8), (i) insurance contracts ~~which~~ ~~that~~ provide for
5 participation in individual or pooled separate accounts of insurance
6 companies, (ii) group trusts, (iii) individual, ~~common~~ common, or
7 collective trust funds of banks and trust ~~companies and~~ companies, (iv)
8 real estate investment ~~trusts;~~ trusts, and (v) limited partnerships,
9 whether described as limited liability partnerships or limited liability
10 companies; provided the investment manager has assets under
11 management of at least one hundred million dollars (\$100,000,000);
12 provided such investment assets are managed primarily for the purpose
13 of investing in or owning real estate or related debt financing located
14 ~~in~~ within or outside the United States; and provided that the investment
15 authorized by this subsection shall not exceed ten percent (10%) of the
16 ~~book~~ market value of all invested assets of the Retirement
17 ~~Systems;~~ Systems.

18 (8) With respect to assets of the Teachers' and State Employees'
19 Retirement System, the Consolidated Judicial Retirement System, the
20 Firemen's and Rescue Workers' Pension Fund, the Local
21 Governmental Employees' Retirement System, ~~and~~ the Legislative
22 Retirement ~~System~~ System, and the North Carolina National Guard
23 Pension Fund (hereinafter referred to collectively as the Retirement
24 Systems), they may be invested in preferred or common stocks issued
25 by any company incorporated or otherwise created or located within or
26 ~~without~~ outside the United States, ~~provided:~~ States provided the
27 investments meet the conditions of this subdivision.

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

35 The assets authorized under this subdivision can be invested
36 through individual, common, or collective trust funds of banks, trust
37 companies, and group trust funds of investment advisory companies so
38 long as the investment manager has assets under management of at
39 least one hundred million dollars (\$100,000,000).

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

42 a. ~~That~~ The common stock or preferred stock of such corporation
43 is registered on a national securities exchange as provided in the

- 1 Federal Securities Exchange Act or quoted through the National
2 Association of Securities Dealers' Automated Quotations
3 (NASDAQ) ~~system;~~ system.
- 4 b. ~~That such~~ The corporation shall ~~have~~ has paid a cash dividend
5 on its common stock in each year of the 5-year period next
6 preceding the date of investment and the aggregate net earnings
7 available for dividends on the common stock of ~~such~~ the
8 corporation for the whole of ~~such~~ that period shall have been at
9 least equal to the amount of ~~such~~ the dividends ~~paid;~~ paid.
- 10 c. ~~That in~~ In applying the dividend and earnings test under this
11 section to any issuing, assuming, or guaranteeing corporation,
12 ~~where such corporation shall have~~ if the corporation acquired
13 its property or any substantial part thereof within a five-year
14 period immediately preceding the date of investment by
15 consolidation, merger, or by the purchase of all or a substantial
16 portion of the property of any other corporation or corporations,
17 or ~~shall have~~ acquired the assets of any unincorporated business
18 enterprise by purchase or otherwise, the dividends and net
19 earnings of the several predecessor or constituent corporations
20 or enterprises shall be consolidated and adjusted so as to
21 ascertain whether or not the applicable requirements of this
22 section ~~subdivision~~ have been complied with; with.
- 23 d. ~~That the book value of common and preferred stocks including~~
24 ~~securities convertible into common stocks shall not exceed fifty~~
25 ~~per centum (50%) of the book value of all invested assets of the~~
26 ~~Retirement Systems; provided, further:~~
- 27 1. ~~Not~~
28 No more than one and one-half per centum percent (1 1/2%) of
29 ~~the book value of such~~ market value of the Retirement Systems'
30 ~~assets shall that may be invested under this subdivision can be~~
31 ~~invested in the stock of a single corporation, and provided~~
32 ~~further; the total number of shares in that single corporation~~
33 ~~cannot exceed eight percent (8%) of the issued and outstanding~~
34 ~~stock of that corporation.~~
- 35 2. ~~The total number of shares in a single corporation shall~~
36 ~~not exceed eight per centum (8%) of the issued and~~
37 ~~outstanding stock of such corporation, and provided~~
38 ~~further;~~
- 39 3. ~~As used in this subdivision d. and elsewhere in this~~
40 ~~section, book value shall mean adjusted cost basis as~~
41 ~~shown on the records of the State Treasurer.~~
- 42 e. Up to five per cent (5%) of the limits authorized in subdivision
43 ~~d. may be invested in the stocks or shares of a diversified~~

- 1 investment company registered under the "Investment Company
2 Act of 1940" which has total assets of at least fifty million
3 dollars (\$50,000,000).
- 4 f. Individual, common or collective trust funds of banks or trust
5 companies provided that the investment manager has assets
6 under management of at least one hundred million dollars
7 (\$100,000,000).
- 8 g. That investments may be made in securities convertible into
9 common stocks issued by any such company, if such securities
10 bear one of the four highest ratings of at least one nationally
11 recognized rating service and do not bear a rating below the
12 four highest by any nationally recognized rating service which
13 may then rate the particular security.
- 14 (9) ~~Obligations~~ With respect to Retirement Systems' assets, as defined in
15 subdivision (b)(8) of this subsection, and securities of The North
16 Carolina Enterprise Corporation, of the North Carolina Economic
17 Opportunities Fund, or of a limited partnership in which The North
18 Carolina Enterprise Corporation or the North Carolina Economic
19 Opportunities Fund is the only general partner, not to exceed twenty
20 million dollars (\$20,000,000) from all funds; and a they may be
21 invested in limited partnership interest-interests in a partnership or in
22 interests in a limited liability company whose-if the primary purpose of
23 the partnership or limited liability company is to invest in venture
24 capital-public or private debt, public or private equity, or corporate
25 buyout transactions, within or outside the United States. The amount
26 invested under this subdivision shall not to exceed thirty million
27 dollars (\$30,000,000) from all funds. five percent (5%) of the market
28 value of all invested assets of the Retirement Systems. These
29 maximum dollar amounts do not apply to or restrict the reinvestment
30 in accordance with this subdivision of any income from these
31 investments.
- 32 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.
33 2.
- 34 (11) With respect to assets of the Escheat Fund, obligations of the North
35 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
36 not to exceed twenty-five million dollars (\$25,000,000), that have a
37 final maturity not later than September 1, 2004. The obligations shall
38 bear interest at the rate set by the State Treasurer. No commitment to
39 purchase obligations may be made pursuant to this subdivision after
40 September 1, 1993, and no obligations may be purchased after
41 September 1, 1994. In the event of a loss to the Escheat Fund by
42 reason of an investment made pursuant to this subdivision, it is the
43 intention of the General Assembly to hold the Escheat Fund harmless

1 from the loss by appropriating to the Escheat Fund funds equivalent to
2 the loss."

3 **SECTION 3.** G.S. 147-69.2(b1) reads as rewritten:

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

18 **SECTION 4.** G.S. 147-69.3 reads as rewritten:

19 "**§ 147-69.3. Administration of State Treasurer's investment programs.**

20 (a) The State Treasurer shall establish, maintain, administer, manage, and operate
21 within the Department of State Treasurer one or more investment programs for the
22 deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S.
23 147-69.2.

24 (b) Any official, board, commission, other public authority, local government,
25 school administrative unit, local ABC board, or community college of the State having
26 custody of any funds not required by law to be deposited with and invested by the State
27 Treasurer may deposit all or any portion of ~~such~~ those funds with the State Treasurer for
28 investment in one of the investment programs established pursuant to this section,
29 subject to any provisions of law with respect to eligible investments, provided that any
30 occupational licensing board as defined in G.S. 93B-1 may participate in one of the
31 investment programs established pursuant to this section regardless of whether or not
32 the funds were required by law to be deposited with and invested by the State Treasurer.
33 In the absence of specific statutory provisions to the contrary, any ~~such~~ of those funds
34 may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon
35 request from any depositor eligible under this subsection, the State Treasurer may
36 authorize moneys invested pursuant to this subsection to be withdrawn by warrant on
37 the State Treasurer.

38 (c) The State Treasurer's investment programs shall be so managed that in the
39 judgment of the State Treasurer funds may be readily converted into cash when needed.

40 (d) Except as provided by G.S. 147-69.1(d), ~~net income~~ the total return earned on
41 investments shall ~~be credited~~ accrue pro rata to the fund whose assets are invested
42 according to ~~such formula as may be~~ the formula prescribed by the State Treasurer with
43 the approval of the Governor and Council of State.

1 (e) The State Treasurer ~~shall have~~ has full powers as a fiduciary to hold,
2 purchase, sell, assign, transfer, lend and dispose of any of the securities or investments
3 in which any of the programs created pursuant to this section have been invested, and
4 may reinvest the proceeds from the sale of ~~such~~ those securities or investments and any
5 other investable assets of the program.

6 (f) The cost of administration, management, and operation of investment
7 programs established pursuant to this section shall be apportioned equitably among the
8 programs in such manner as may be prescribed by the State Treasurer, such costs to be
9 paid from each program, and to the extent not otherwise chargeable directly to the
10 income or assets of the specific investment program or pooled investment vehicle, shall
11 be deposited with the State Treasurer as a General Fund nontax revenue. The cost of
12 administration, management, and operation of investment programs established
13 pursuant to this section and not directly paid from the income or assets of such program
14 shall be covered by an appropriation to the State Treasurer for this purpose in the
15 Current Operations Appropriations Act.

16 (g) The State Treasurer is authorized to retain the services of ~~such~~ independent
17 appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians,
18 custodians, or other persons or firms possessing specialized skills or knowledge ~~as may~~
19 ~~be~~ necessary for the proper administration of investment programs created pursuant to
20 this section.

21 (h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on
22 the financial condition of each investment program created pursuant to this section. A
23 copy of each report shall be submitted within 30 days following the end of the fiscal
24 year to the official, institution, board, commission or other agency whose funds are
25 invested, the State Auditor, and the Advisory Budget Commission.

26 (i) The State Treasurer's annual report to the General Assembly shall include a
27 full and complete statement of all moneys invested by virtue of the provisions of G.S.
28 147-69.1 and G.S. 147-69.2, the nature and character of investments therein, and the
29 revenues derived therefrom. ~~The State Treasurer shall also establish annual investment~~
30 ~~yield targets for all moneys invested by virtue of the provisions of G.S. 147-69.1 and~~
31 ~~G.S. 147-69.2, and shall include in his annual report a statement of the extent that these~~
32 ~~targets have been reached.~~

33 (j) Subject to the provisions of ~~G.S. 147-69.1(e),~~ G.S. 147-69.1(d), the State
34 Treasurer shall adopt ~~such rules and regulations as may be~~ any rules necessary to carry
35 out the provisions of this section."

36 **SECTION 5.** This act becomes effective October 1, 2001.