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HOUSE BILL 730
Committee Substitute Favorable 6/8/11
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Short Title: Local Bds of Education/403(b) Option.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF STATE TREASURER TO CREATE A
CENTRALIZED 403(B) RETIREMENT ANNUITY PLAN AS AN OPTION FOR
EMPLOYEES OF LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-341 reads as rewritten:

"§ 115C-341. **Annuity ~~contracts.~~ contracts from local boards of education.**

Notwithstanding the provisions of this Chapter for the adoption of State and local salary schedules for the pay of teachers, principals, superintendents, and other school employees, local boards of education may enter into annual contracts with any employee of such board which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The local board of education shall use the funds derived from the reduction in the salary of the employee to purchase a nonforfeitable annuity contract for the benefit of said employee. An 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 contract. Funds used by the local boards of education for the purchase of an annuity contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective.

The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the State Board of Education and on forms prepared by the State Board of Education.

Notwithstanding any other provisions of this section, the amount by which the salary of any employee is reduced pursuant to this section 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 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 education 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 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-341.2. **Department of State Treasurer sponsored 403(b) option.**



1 (a) In addition to the opportunities for local boards of education to offer section 403(b)
2 of the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their
3 employees under G.S. 115C-341, the Department of State Treasurer may establish an approved
4 third-party vendor of retirement offerings as described in section 403(b) of the Internal
5 Revenue Code of 1986, as now and hereafter amended, pursuant to which employees of local
6 school boards may enter into nonforfeitable 403(b) plan options by way of salary reduction
7 through the auspices of the Department of State Treasurer. This statewide plan shall be known
8 as the "North Carolina Public School Teachers' and Professional Educators' Investment Plan."
9 The vendor authorized under this section shall be selected by use of State procurement
10 procedures, with the goal of attaining lower administrative fees and enhanced services for
11 participants and employer compliance with applicable law and regulations. Eligible employees
12 of local school boards shall all be allowed to use this vendor for the tax-deferred 403(b) option
13 of their choice.

14 (b) The criteria in this subsection apply to the Department of State Treasurer's 403(b)
15 offerings to employees of local school boards under this section.

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

22 For employers choosing to participate in the North Carolina Public
23 School Teachers' and Professional Educators' Investment Plan, the
24 third-party administrator shall, at a minimum, provide the following:

- 25 a. Maintain a written plan document.
- 26 b. Review hardship withdrawal requests, loan requests, and other
27 disbursements permitted under section 403(b) of the Internal
28 Revenue Code of 1986.
- 29 c. Maintain specimen salary reduction agreements for the employer and
30 employees of that employer to initiate payroll deferrals.
- 31 d. Monitor maximum contributions.
- 32 e. Coordinate responses to the Internal Revenue Service in any case of
33 an IRS audit.
- 34 f. Generate educational communication materials to employees
35 concerning the enrollment process, program eligibility, and
36 investment options.
- 37 g. Maintain internal reports to ensure compliance with Section 403(b)
38 of the Internal Revenue Code and Title 26 of the Code of Federal
39 Regulations.
- 40 h. Provide compliance monitoring/oversight for all 403(b) plans
41 established under G.S. 115C-341 within each participating local
42 board of education plan by creating and establishing the necessary
43 connections and processes with existing and future vendors.
- 44 i. Keep an updated schedule of vendor fees and commissions as to the
45 Department's statewide plan.

46 (2) Governance and oversight of the North Carolina Public School Teachers' and
47 Professional Educators' Investment Plan will be performed by the
48 Department of State Treasurer and the Board of Trustees for the North
49 Carolina Supplemental Retirement Plans established pursuant to
50 G.S. 135-96. Because of the administrative and record-keeping duties
51 enumerated in subdivision (1) of this subsection, any existing vendor of a

1 403(b) with a participating employer must either agree to share data with the
2 State's 403(b) vendor under this provision (so as to permit oversight over
3 contribution limits, loans, and hardship withdrawals) or be directed by the
4 participating employer to cease accepting new contributions, loans, and
5 hardship withdrawals.

6 (3) Investment options shall be solely determined by the Department of State
7 Treasurer and Board of Trustees for the North Carolina Supplemental
8 Retirement Plans consistent with section 403(b) of the Internal Revenue
9 Code of 1986, as amended.

10 (4) Investment staff of the Department of State Treasurer may make
11 recommendations to the State Treasurer and Board of Trustees for the North
12 Carolina Supplemental Retirement Plans as to appropriate investment
13 options. The State Treasurer and Board of Trustees shall have sole
14 responsibility for the selection of the service provider for the North Carolina
15 Public School Teachers' and Professional Educators' Investment Plan.

16 (5) All contributions made in accordance with the provisions of section 403(b)
17 of the Internal Revenue Code of 1986, as amended, and this section shall be
18 remitted directly to the administrator and held by the administrator in a
19 custodial account on behalf of each participating employee. Any investment
20 gains or losses shall be credited to those accounts. The forms of payment and
21 disbursement procedures shall be consistent with those generally offered by
22 similar annuity contracts, trust accounts, and custodial accounts and
23 applicable federal and State statutes governing those contracts and accounts.

24 (6) Any local board of education may elect to make contributions to the
25 employee's account on behalf of the employee. The employer shall take
26 whatever action is necessary to implement this section.

27 (7) The design and administration of annuity contracts, trust accounts, and
28 custodial accounts under this provision shall comply with all applicable
29 provisions of the Internal Revenue Code of 1986, as amended."

30 **SECTION 3.** This act becomes effective July 1, 2011.