

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-98
SENATE BILL 703**

AN ACT CONCERNING INVESTMENTS OF THE STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. 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 each of the following:

- (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.~~
The State Health Plan for Teachers and State Employees.
- (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.
- (15) The Public School Insurance Fund.
- (16) The Liability Insurance Trust Fund.
- (16a) The University of North Carolina Hospitals at Chapel Hill funds, except appropriated funds, deposited with the State Treasurer pursuant to G.S. 116-37.2.
- (17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- (17a) North Carolina Veterans Home Trust Fund.
- (17b) North Carolina National Guard Pension Fund.
- (17c) Retiree Health Premium Reserve Account.
- (17d) The Election Fund.
- (17e) The North Carolina State Lottery Fund.
- (17f) Funds deposited with the State Treasurer by public hospitals pursuant to G.S. 159-39(g).
- (17g) The Local Government Other Post-Employment Benefits Fund.
- (17h) The Local Government Law Enforcement Special Separation Allowance Fund.
- (17i) The North Carolina Conservation Easement Endowment Fund.
- (17j) The Conservation Grant Fund.



- (18) Any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act.
 - (19) The Swain County Settlement Trust Fund.
- (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:
- (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
 - (2) General obligations of other states of the United States.
 - (3) General obligations of cities, counties and special districts in North Carolina.
 - (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States ~~States~~, including obligations that are convertible into equity securities, if the obligations bear one of the four highest ratings of at least one nationally recognized rating service ~~and do not bear a rating below the four highest by any nationally recognized rating service which rates the particular security when acquired~~.
 - (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
 - (6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in ~~G.S. 147-69.2(b)(4) and that they do not bear a rating below the four highest by any nationally recognized rating service that rates the particular securities~~.G.S. 147-69.2(b)(4).
- (6a) In addition to the limitations and requirements with respect to the investments of the Retirement Systems set forth in this subsection, the State Treasurer shall select investments of the assets of the Retirement Systems such that investments made pursuant to subdivisions (b)(1) through (6) of this section shall at all times equal or exceed twenty percent (20%) of the market value of all invested assets of the Retirement Systems.
- (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may be made directly by the State Treasurer or through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by subdivisions (b)(1) through (6) of this section, provided for each indirect investment, the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).
- (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8), they may be invested in obligations and other debt securities, including debt securities convertible into other securities, that do not meet the requirements of any of subdivisions (b)(1) through (6) of this section nor subdivision (b)(7) of this section, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common collective trust funds of banks and trust companies, group trusts and limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under management of at least one hundred million dollars (\$100,000,000) and provided that the investments authorized under this subdivision shall not

exceed five percent (5%) of the market value of all invested assets of the Retirement Systems.

- (7) With respect to Retirement Systems' assets referred to in ~~G.S. 147-69.2(b)(8)~~, subdivision (8) of this subsection, (i) insurance contracts that provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, common, or collective trust funds of banks and trust companies, (iv) real estate investment trusts, and (v) investment companies registered under the Investment Company Act of 1940, and (vi) limited partnerships, whether described as limited liability partnerships-companies, or other limited liability companies; investment vehicles; provided the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt financing located within or outside the United States; and provided that the ~~investment investments~~ authorized by this subsection-subdivision shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems.
- (8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in ~~preferred or common stock~~ equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States-States; provided the investments meet the conditions of this subdivision.

The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems. ~~Up to five percent (5%) of the amount that may be invested under this subdivision may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" that has total~~ So long as each investment manager has assets under management of at least fifty million dollars (\$50,000,000)-one hundred million dollars (\$100,000,000), the ~~The~~ assets authorized under this subdivision can be invested through (i) investment companies registered under the Investment Company Act of 1940; (ii) individual, common, or collective trust funds of banks, banks and trust companies, and group trust funds of investment advisory companies so long as the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); (iii) group trusts, and (iv) contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements.

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

- a. ~~The common stock or preferred stock of such corporation is registered on a national securities exchange as provided in the Federal Securities Exchange Act or quoted through the National~~

~~Association of Securities Dealers' Automated Quotations (NASDAQ) system.~~

- ~~b. The corporation has paid a cash dividend on its common stock in each year of the 5 year period next preceding the date of investment and the aggregate net earnings available for dividends on the common stock of the corporation for the whole of that period have been at least equal to the amount of the dividends paid.~~
 - ~~e. In applying the dividend and earnings test under this section to any issuing, assuming, or guaranteeing corporation, if the corporation acquired its property or any substantial part thereof within a five year period immediately preceding the date of investment by consolidation, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or acquired the assets of any unincorporated business enterprise by purchase or otherwise, the dividends and net earnings of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this subdivision have been complied with. by the State Treasurer in any equity securities represented in the S&P 500 Index or that have been publicly announced to be included in the S&P 500 Index. No more than one and one-half percent (1 1/2%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.~~
 - ~~d. to f. Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.~~
 - ~~g. That investments may be made in securities convertible into common stocks issued by any such company, if such securities bear one of the four highest ratings of at least one nationally recognized rating service and do not bear a rating below the four highest by any nationally recognized rating service which may then rate the particular security.~~
- (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in ~~limited partnership interests in a partnership or in interests in a limited liability company~~interests in limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded if the primary purpose of the ~~partnership or limited liability company~~limited partnership, limited liability company, or other limited liability investment vehicle is to invest in public or private debt, public or private equity, or corporate buyout transactions, within or outside the United States. The amount invested under this subdivision shall not exceed five percent (5%) of the market value of all invested assets of the Retirement Systems.
- (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in inflation-linked bonds, timberlands, commodities, and other assets that are acquired for the primary purpose of providing protection against risks associated with inflation, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common or collective trust funds of banks and trust companies, group trusts and

limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under management of at least one hundred million dollars (\$100,000,000) and provided that the investments authorized under this subdivision shall not exceed five percent (5%) of the market value of all invested assets of the Retirement Systems. Notwithstanding anything in this subsection to the contrary, the investments authorized by this subdivision shall not be included in any subdivision other than this subdivision for purposes of the percentage investment limitations therein or otherwise.

- (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, 2009. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

- (12) With respect to assets of the Escheat Fund, in addition to those investments authorized by subdivisions (1) through (6) of this subsection, up to twenty percent (20%) of such assets may be invested in the investments authorized under subdivisions (7) through (9) of this subsection, notwithstanding the percentage limitations imposed on the retirement funds Retirement Systems' investments under those subdivisions.

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

(b2) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17f) of this section in any of the investments authorized under subdivisions (b)(1) through (6), ~~subdivision (b)(6c),~~ and subdivision (8) of subsection (b) (b8) ~~of this section.~~ section.

notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable ~~fee, fees,~~ not to exceed 15 basis ~~points, points~~ per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection by a hospital shall remain the funds of that hospital, and interest or other investment income earned thereon shall be prorated and credited to the contributing hospital on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection.

(b3) The State Treasurer may invest funds deposited pursuant to subdivision (a)(16a) of this section in any of the investments authorized under subdivisions (1) through ~~(6)(6),~~ subdivision (6c) and subdivision (8) of subsection (b) subdivision (b)(8) of this section-section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable ~~fee, fees,~~ not to exceed 15 basis ~~points, points~~ per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection by the University of North Carolina Hospitals at Chapel Hill shall remain the funds of the University of North Carolina Hospitals at Chapel Hill, and interest or other investment income earned thereon shall be prorated and credited to the University of North Carolina Hospitals at Chapel Hill on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection.

(b4) In addition to the investments authorized under subdivisions (b)(1) through ~~(b)(6)~~ of this section, the State Treasurer may invest funds deposited in the Local Government Other Post-Employment Benefits Fund in any of the investments authorized under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section-section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from that Fund made under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess a ~~fee, fees~~ of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund.

(b5) In addition to the investments authorized under subdivisions (b)(1) through ~~(b)(6)~~ of this section, the State Treasurer may invest funds deposited in the Local Government Law Enforcement Special Separation Allowance Fund in any of the investments authorized under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section-section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from that Fund made under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess a ~~fee, fees~~ of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund.

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

(d) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17i) of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment Fund, and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment Fund on the basis of the amounts thereof contributed, figured according to sound accounting principles."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:47 p.m. this 11th day of June, 2009