

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-169
HOUSE BILL 264**

**AN ACT TO ALLOW COMMUNITY COLLEGES TO PARTICIPATE IN THE 403(B)
SUPPLEMENTAL RETIREMENT PLAN.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-25 reads as rewritten:

"§ 115D-25. Purchase of annuity or retirement income contracts for ~~employees~~employees by local boards of trustees.

Notwithstanding any provision of law relating to salaries or salary schedules for the pay of faculty members, administrative officers, or any other employees of community colleges, the board of trustees of any of the above institutions may authorize the finance officer or agent of same to enter into annual contracts with any of the above officers, agents and employees which provide for reductions in salaries below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said officer, agent or employee. An officer, agent or 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 or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the officer, agent or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to in this section shall be effected under any necessary regulations and procedures adopted by the State Board of Community Colleges and on forms prepared by the State Board of Community Colleges. Notwithstanding any other provisions of this section or law, the amount by which the salary of an officer, agent or employee is reduced pursuant to this section shall not be excluded, but 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 and related 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 trustees 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 2 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-25.4. Department of State Treasurer-sponsored 403(b) option.

(a) In addition to the opportunities for local boards of trustees to offer section 403(b) of the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees under G.S. 115D-25, local boards of trustees may also offer the "North Carolina Public School Teachers' and Professional Educators' Investment Plan" as operated by the Department of State Treasurer.

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

(1) Annuity contracts, trust accounts, and/or custodial accounts shall be administered by a qualified third-party administrator that shall, under written agreement with the Department of State Treasurer, provide custodial, record-keeping, and administrative services. The third-party administrator



may also be the selected vendor for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

For local boards of trustees as employers choosing to participate in the North Carolina Public School Teachers' and Professional Educators' Investment Plan, the third-party administrator shall, at a minimum, provide the following:

- a. Maintain a written plan document.
 - b. Review hardship withdrawal requests, loan requests, and other disbursements permitted under section 403(b) of the Internal Revenue Code of 1986.
 - c. Maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.
 - d. Monitor maximum contributions.
 - e. Coordinate responses to the Internal Revenue Service in any case of an IRS audit.
 - f. Generate educational communication materials to employees concerning the enrollment process, program eligibility, and investment options.
 - g. Maintain internal reports to ensure compliance with section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.
 - h. Provide compliance monitoring/oversight for all 403(b) plans established under G.S. 115D-25 within each participating local board of trustees plan by creating and establishing the necessary connections and processes with existing and future vendors.
 - i. Keep an updated schedule of vendor fees and commissions as to the Department's statewide plan.
- (2) Governance and oversight of the North Carolina Public School Teachers' and Professional Educators' Investment Plan will be performed by the Department of State Treasurer and the Board of Trustees for the North Carolina Supplemental Retirement Plans established pursuant to G.S. 135-96. Because of the administrative and record-keeping duties enumerated in subdivision (1) of this subsection, any existing vendor of a 403(b) with a participating employer must either agree to share data with the State's 403(b) vendor under this provision (so as to permit oversight over contribution limits, loans, and hardship withdrawals) or be directed by the participating employer to cease accepting new contributions, loans, and hardship withdrawals.
- (3) Investment options shall be solely determined by the Department of State Treasurer and Board of Trustees for the North Carolina Supplemental Retirement Plans consistent with section 403(b) of the Internal Revenue Code of 1986, as amended.
- (4) Investment staff of the Department of State Treasurer may make recommendations to the State Treasurer and Board of Trustees for the North Carolina Supplemental Retirement Plans as to appropriate investment options. The State Treasurer and Board of Trustees shall have sole responsibility for the selection of the service provider for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.
- (5) All contributions made in accordance with the provisions of section 403(b) of the Internal Revenue Code of 1986, as amended, and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of each participating employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedures shall be consistent with those generally offered by similar annuity contracts, trust accounts, and custodial accounts and applicable federal and State statutes governing those contracts and accounts.
- (6) Any local board of trustees may elect to make contributions to the employee's account on behalf of the employee. The local board of trustees shall take whatever action is necessary to implement this section.

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

SECTION 3. This act becomes effective October 1, 2015.

In the General Assembly read three times and ratified this the 22nd day of July, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 1:34 p.m. this 23rd day of July, 2015