

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE DRS75212-LL-17A (1/28)

Short Title: Retirement System Disclosure. (Public)

Sponsors: Senators Shubert; and Webster.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT ADOPTING THE REPORTING REQUIREMENTS OF THE UNIFORM  
3 MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS ACT FOR  
4 ALL RETIREMENT SYSTEMS MANAGED BY THE STATE TREASURER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 147 of the General Statutes is amended by adding a  
7 new Article to read:

8 "Article 6D.

9 "Retirement System Disclosure.

10 "**§ 147-86.50. Disclosure to public.**

11 (a) For purposes of this Article:

12 (1) "Beneficiary" means a person, other than the participant, who is  
13 designated by a participant or by a retirement program to receive a  
14 benefit under the program.

15 (2) "Participant" means an individual who is or has been an employee  
16 enrolled in a retirement program and who is or may become eligible to  
17 receive, or is currently receiving, a benefit under the program or whose  
18 beneficiaries are or may become eligible to receive a benefit. The term  
19 does not include an individual who is no longer an employee of a  
20 public employer and has not accrued any nonforfeitable benefits under  
21 the program.

22 (3) "Retirement program" means a program of rights and obligations  
23 which a public employer establishes or maintains and which, by its  
24 express terms or as a result of surrounding circumstances:

25 a. Provides retirement income to employees; or

26 b. Results in a deferral of income by employees for periods  
27 extending to the termination of covered employment or beyond.

1           (4) "Retirement system" means the Teachers' and State Employees'  
2           Retirement System, the Consolidated Judicial Retirement System, the  
3           Legislative Retirement System, the Local Governmental Employees'  
4           Retirement System, the Firemen's and Rescue Workers' Pension Fund,  
5           and the North Carolina National Guard Pension Fund.

6           (b) The State Treasurer shall prepare and disseminate, including publication on  
7           the Internet:

8           (1) A summary plan description of each retirement program;

9           (2) A summary description of any material modification in the terms of  
10           the program and any material change in the information required to be  
11           contained in the summary plan description, to the extent the  
12           modification or change has not been integrated into an updated  
13           summary plan description;

14           (3) An annual disclosure of financial and actuarial status; and

15           (4) An annual report.

16           (c) The State Treasurer shall make available for public examination in the  
17           principal office of the administrator and in other places if necessary to make the  
18           information reasonably available to participants:

19           (1) The governing law of the retirement program and system;

20           (2) The most recent summary plan description;

21           (3) Summary descriptions of modifications or changes described in  
22           subdivision (a)(2) of this section that have been provided to  
23           participants and beneficiaries but have not yet been integrated into the  
24           summary plan description;

25           (4) The most recent annual disclosure of financial and actuarial status; and

26           (5) The most recent annual report.

27           (d) Upon written request by a participant, beneficiary, or member of the public,  
28           the State Treasurer shall provide a copy of any publication described in subsection (b)  
29           of this section. Except as otherwise provided in G.S. 147-86.51(a), the State Treasurer  
30           may charge a reasonable fee to cover the cost of providing copies. The State Treasurer  
31           shall provide the copies within 30 days after the request or, if a fee is charged, within 30  
32           days after receiving payment.

33           **"§ 147-86.51. Disclosure to participants and beneficiaries.**

34           (a) The State Treasurer shall furnish to each participant and to each beneficiary  
35           who is receiving benefits under a retirement program:

36           (1) A copy of the most recent summary plan description, along with any  
37           summary descriptions of modifications or changes described in G.S.  
38           147-86.50(a)(2), within three months after a person becomes a  
39           participant or, in the case of a beneficiary, within three months after a  
40           person first receives benefits, or, if later, within four months after the  
41           retirement program becomes subject to this Article;

42           (2) The summary description of any modifications or changes described in  
43           G.S. 147-86.50(a)(2), within seven months after the end of the fiscal  
44           year in which a modification or change has been made;

- 1           (3) A copy of an updated summary plan description that integrates all  
2           modifications and changes at intervals not exceeding five years; and  
3           (4) The annual report within seven months after the end of each fiscal  
4           year.

5           (b) The State Treasurer shall provide to a participant or beneficiary a statement  
6           containing information that would permit the participant or beneficiary to estimate  
7           projected benefits reasonably, to the extent the information is regularly maintained by  
8           the retirement system. The information must be provided with the annual report or upon  
9           written request of the participant or beneficiary. The information need not be provided  
10           to a participant or beneficiary who is currently receiving benefits.

11           (c) A participant who is not currently receiving benefits is entitled without  
12           charge to one statement under subsection (b) of this section during any fiscal year. The  
13           State Treasurer may charge a reasonable fee to cover the cost of providing other  
14           statements. The State Treasurer shall provide the statements within 30 days after the  
15           participant's or beneficiary's request or, if a fee is charged, within 30 days after  
16           receiving payment.

17 **"§ 147-86.52. Reports to Secretary of State.**

18           The State Treasurer shall file with the Secretary of State a copy of:

- 19           (1) The governing law of the retirement program and system within four  
20           months after the system becomes subject to this Article and an updated  
21           copy at least once every year thereafter;  
22           (2) The summary plan description within four months after the system  
23           becomes subject to this Article and of updated summary plan  
24           descriptions at the same time they are first furnished to any participant  
25           or beneficiary under G.S. 147-86.50(a)(3);  
26           (3) Any summary description of modifications or changes within seven  
27           months after the end of the fiscal year in which a modification or  
28           change has been made; and  
29           (4) The annual disclosure of financial and actuarial status and the annual  
30           report within seven months after the end of each fiscal year.

31 **"§ 147-86.53. Summary plan description.**

32           (a) A summary plan description and a summary description of modifications or  
33           changes under G.S. 147-86.50(a)(2) must be written in a manner calculated to be  
34           understood by the average participant and be accurate and sufficiently comprehensive  
35           reasonably to inform the participants and beneficiaries of their rights and obligations  
36           under the retirement program.

37           (b) A summary plan description must contain:

- 38           (1) The name of the retirement program and system and type of  
39           administration;  
40           (2) The name and business address of the administrator;  
41           (3) The name and business address of each agent for service of process;  
42           (4) Citations to the governing law of the retirement program and system;  
43           (5) A description of the program's requirements respecting eligibility for  
44           participation and benefits;

- 1           (6) A description of the program's provisions providing for nonforfeitable  
2           benefits;
- 3           (7) A description of circumstances that may result in disqualification,  
4           ineligibility, or denial or loss of benefits;
- 5           (8) A description of the benefits provided by the program, including the  
6           manner of calculating benefits and any benefits provided for spouses  
7           and survivors;
- 8           (9) The source of financing of the program;
- 9           (10) The identity of any organization through which benefits are provided;
- 10          (11) The date the fiscal year ends;
- 11          (12) The procedures to claim benefits under the program and the  
12          administrative procedures available under the program for the redress  
13          of claims that are denied in whole or in part; and
- 14          (13) Notice of the availability of additional information pursuant to G.S.  
15          147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

16 **"§ 147-86.54. Annual disclosure of financial and actuarial status.**

- 17       (a) As used in this section, "qualified public accountant" means:
- 18           (1) An auditing agency of this State, or a political subdivision of this  
19           State, which has no direct relationship with the functions or activities  
20           of a retirement system or its fiduciaries other than:
- 21               a. Functions relating to this Article; or
- 22               b. A relationship between the system and the agency's employees  
23               as participants or beneficiaries on the same basis as other  
24               participants and beneficiaries; or
- 25           (2) A person who is an independent public accountant, certified or  
26           licensed by a regulatory authority of a State.
- 27       (b) As used in this section, "related person" of an individual means:
- 28           (1) The individual's spouse or a parent or sibling of the spouse;
- 29           (2) The individual's descendant, sibling, or parent, or the spouse of the  
30           individual's descendant, sibling, or parent;
- 31           (3) Another individual residing in the same household as the individual;
- 32           (4) A trust or estate in which an individual described in subdivision (1),  
33           (2), or (3) of this subsection has a substantial interest;
- 34           (5) A trust or estate for which the individual has fiduciary responsibilities;  
35           or
- 36           (6) An incompetent, ward, or minor for whom the individual has fiduciary  
37           responsibilities.
- 38       (c) An annual disclosure of financial and actuarial status must contain:
- 39           (1) The name of the retirement system and identification of each  
40           retirement program and, if programs are in an appropriate grouping of  
41           programs, of each appropriate grouping of programs;
- 42           (2) The name and business address of the administrator;

- 1           (3)    The name and business address of each trustee and each member of a  
2                   board of trustees and a brief description of how the trustee or member  
3                   was selected;
- 4           (4)    The name and business address of each agent for service of process;
- 5           (5)    The number of employees covered by each retirement program not in  
6                   an appropriate grouping of programs, or by each appropriate grouping  
7                   of programs, or both;
- 8           (6)    The name and business address of each fiduciary;
- 9           (7)    The current statement of investment objectives and policies;
- 10          (8)    Financial statements and notes to the financial statements in  
11               conformity with generally accepted accounting principles;
- 12          (9)    An opinion on the financial statements by a qualified public  
13               accountant in conformity with generally accepted auditing standards;
- 14          (10)   In the case of a defined benefit plan, actuarial schedules and notes to  
15               the actuarial schedules in conformity with generally accepted actuarial  
16               principles and practices for measuring pension obligations;
- 17          (11)   In the case of a defined benefit plan, an opinion by a qualified actuary  
18               that the actuarial schedules are complete and accurate to the best of the  
19               actuary's knowledge, that each assumption and method used in  
20               preparing the schedules is reasonable, that the assumptions and  
21               methods in the aggregate are reasonable, and that the assumptions and  
22               methods in combination offer the actuary's best estimate of anticipated  
23               experience;
- 24          (12)   A description of any material interest, other than the interest in the  
25               retirement program itself, held by any public employer participating in  
26               the system or any employee organization representing employees  
27               covered by the system in any material transaction with the system  
28               within the last three years or proposed to be effected;
- 29          (13)   A description of any material interest held by any trustee,  
30               administrator, or employee who is a fiduciary with respect to the  
31               investment and management of assets of the system, and, if the  
32               fiduciary is an individual, by a related person of the beneficiary, in any  
33               material transaction with the system within the last three years or  
34               proposed to be effected;
- 35          (14)   A schedule of the rates of return, net of total investment expense, on  
36               assets of the system overall and on assets aggregated by category over  
37               the most recent one-year, three-year, five-year, and 10-year periods, to  
38               the extent available, and the rates of return on appropriate benchmarks  
39               for assets of the system overall and for each category over each period;
- 40          (15)   A schedule of the sum of total investment expense and total general  
41               administrative expense for the fiscal year expressed as a percentage of  
42               the fair value of assets of the system on the last day of the fiscal year,  
43               and an equivalent percentage for the preceding five fiscal years; and

1           (16) A schedule of all assets held for investment purposes on the last day of  
2           the fiscal year aggregated and identified by issuer, borrower, lessor, or  
3           similar party to the transaction stating, if relevant, the asset's maturity  
4           date, rate of interest, par or maturity value, number of shares, cost, and  
5           fair value and identifying any asset that is in default or classified as  
6           uncollectible.

7       **"§ 147-86.55. Annual report.**

8           An annual report must contain:

- 9           (1) The name and business address of each trustee and each member of a  
10          board of trustees;  
11          (2) The financial statements, but not the notes, required by  
12          G.S. 147-86.54(c)(8);  
13          (3) For defined benefit plans, the actuarial schedules, but not the notes,  
14          required by G.S. 147-86.54(c)(10);  
15          (4) The schedules described in G.S. 147-86.54(c)(14) and (15);  
16          (5) A brief description of and information about how to interpret the  
17          statements and schedules;  
18          (6) Other material necessary to summarize fairly and accurately the annual  
19          disclosure of financial and actuarial status; and  
20          (7) Notice of the availability of additional information pursuant to  
21          G.S. 147-86.50(b) and (c), 147-86.51(b) and (c), and 147-86.52.

22       **"§ 147-86.56. Enforcement.**

23          (a) A public employer, participant, beneficiary, or fiduciary may maintain an  
24          action:

- 25               (1) To enjoin an act, practice, or omission that violates this Article; or  
26               (2) For other appropriate equitable relief to redress the violation of or to  
27               enforce this Article.

28          (b) The Secretary of State may maintain an action to enjoin a violation of  
29          G.S. 147-86.52.

30          (c) In an action under this section by a participant, beneficiary, or fiduciary, the  
31          court may award reasonable attorneys' fees and costs to either party.

32       **"§ 147-86.57. Statute of limitations.**

33           An action under G.S. 147-86.56 must be commenced within three years."

34           **SECTION 2.** This act becomes effective January 1, 2004.