

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 580
Finance Committee Substitute Adopted 5/10/07
House Committee Substitute Favorable 7/26/07
House Committee Substitute #2 Favorable 7/27/07

Short Title: State Treasurer/Local OPEB Investments.

(Public)

Sponsors:

Referred to:

March 7, 2007

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH THE LOCAL GOVERNMENT POST-EMPLOYMENT
2 BENEFITS FUND UNDER THE MANAGEMENT OF THE STATE
3 TREASURER, TO ESTABLISH THE LOCAL GOVERNMENT LAW
4 ENFORCEMENT SPECIAL SEPARATION ALLOWANCE BENEFITS FUND
5 UNDER THE MANAGEMENT OF THE STATE TREASURER, TO
6 AUTHORIZE THE TREASURER TO MAKE EQUITY INVESTMENTS FROM
7 THE FUND TO THE SAME EXTENT ALLOWED FOR CERTAIN
8 INVESTMENTS FROM THE STATE RETIREMENT SYSTEM, TO ALLOW
9 LOCAL ENTITIES TO ESTABLISH OTHER IRREVOCABLE TRUSTS TO
10 FUND POST-EMPLOYMENT BENEFITS, AND TO ALLOW LOCAL
11 GOVERNMENTS TO ESTABLISH OTHER IRREVOCABLE TRUSTS TO
12 FUND LAW ENFORCEMENT SPECIAL SEPARATION ALLOWANCE
13 BENEFITS.
14

15 The General Assembly of North Carolina enacts:

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

18 **"§ 147-69.4. Local Government Other Post-Employment Benefits Fund**

19 The Local Government Other Post-Employment Benefits Fund is established as a
20 fund in the Office of the State Treasurer under the management of the Treasurer. The
21 Fund consists of contributions made by local governments and other entities authorized
22 to make contributions to the Fund and interest and other investment income earned by
23 the Fund. Contributions to the Fund are irrevocable. Assets of the Fund may be used
24 only to provide other post-employment benefits to individuals who are former
25 employees, or beneficiaries of former employees, of an entity that contributes to the
26 Fund and are entitled to other post-employment benefits payable by the entity. The

1 assets of the Fund are not subject to the claims of creditors of an entity that contributes
2 to the Fund."

3 **SECTION 2.** G.S. 147-69.2(a) reads as rewritten:

4 "(a) This section applies to funds held by the State Treasurer to the credit of each
5 of the following:

6 ...

7 (17g) The Local Government Other Post-Employment Benefits Fund.

8"

9 **SECTION 3.** G.S. 147-69.2 is amended by adding a new subsection to read:

10 "(b4) In addition to the investments authorized under subdivisions (b)(1) through
11 (b)(6) of this section, the State Treasurer may invest funds deposited in the Local
12 Government Other Post-Employment Benefits Fund in the investments authorized under
13 subdivision (b)(8) of this section. For investments from that Fund made under
14 subdivision (b)(8) of this section, the State Treasurer may require a minimum deposit of
15 up to one hundred thousand dollars (\$100,000) and may assess a fee of up to 15 basis
16 points as a condition of making the investment. The fee may be used to defray the costs
17 of administering the Fund."

18 **SECTION 4.** G.S. 159-30 is amended by adding a new subsection to read:

19 "(g) A local government, public authority, an entity eligible to participate in the
20 Local Government Employee's Retirement System, or a local school administrative unit
21 may make contributions to the Local Government Other Post-Employment Benefits
22 Fund established in G.S. 147-69.4."

23 **SECTION 5.** Article 3 of Chapter 159 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 159-30.1. Trust for other post-employment benefits.**

26 (a) Trust. – A local government, a public authority, an entity eligible to
27 participate in the Local Government Employee's Retirement System, or a local school
28 administrative unit may establish and fund an irrevocable trust for the purpose of paying
29 post-employment benefits for which the entity is liable. The irrevocable trust must be
30 established by resolution or ordinance of the entity's governing board. The resolution or
31 ordinance must state the purposes for which the trust is created and the method of
32 determining and selecting the Fund's trustees. The resolution or ordinance establishing
33 the trust may be amended from time to time, but an amendment may not authorize the
34 use of monies in the trust for a purpose not stated in the resolution or ordinance
35 establishing the trust.

36 (b) Restrictions. – Monies in an irrevocable trust established under subsection (a)
37 of this section may be appropriated only for the purposes for which the trust was
38 established. Monies in the trust are not subject to the claims of creditors of the entity
39 that established the trust. An entity that establishes a trust may not deposit money in the
40 trust if the total amount held in trust would exceed the entity's actuarial liability,
41 determined in accordance with the standards of the Governmental Accounting Standards
42 Board, for the purposes for which the trust was established."

43 **SECTION 6.** Article 6 of Chapter 147 of the General Statutes is amended by
44 adding a new section to read:

1 **§ 147-69.5. Local Government Law Enforcement Special Separation Allowance**
2 **Fund.**

3 The Local Government Law Enforcement Special Separation Allowance Fund is
4 established as a fund in the Office of the State Treasurer under the management of the
5 Treasurer. The Fund consists of contributions made by entities authorized to make
6 contributions to the Fund and interest and other investment income earned by the Fund.
7 Contributions to the Fund are irrevocable. Assets of the Fund may be used only to
8 provide law enforcement special separation allowance benefits to individuals who are
9 former employees of a unit of local government that contributes to the Fund and are
10 entitled to law enforcement special separation allowance payable by the unit. The assets
11 of the Fund are not subject to the claims of creditors of an entity that contributes to the
12 Fund."

13 **SECTION 7.** G.S. 147-69.2(a) is amended by adding a new subdivision to
14 read:

15 "(a) This section applies to funds held by the State Treasurer to the credit of each
16 of the following:

17 ...

18 (17h) The Local Government Law Enforcement Special Separation
19 Allowance Fund.

20"

21 **SECTION 8.** G.S. 147-69.2 is amended by adding a new subsection to read:

22 "(b5) In addition to the investments authorized under subdivisions (b)(1) through
23 (b)(6) of this section, the State Treasurer may invest funds deposited in the Local
24 Government Law Enforcement Special Separation Allowance Fund in the investments
25 authorized under subdivision (b)(8) of this section. For investments from that Fund
26 made under subdivision (b)(8) of this section, the State Treasurer may require a
27 minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess a
28 fee of up to 15 basis points as a condition of making the investment. The fee may be
29 used to defray the costs of administering the Fund."

30 **SECTION 9.** G.S. 159-30 is amended by adding a new subsection to read:

31 "(g) A unit of local government employing local law enforcement officers may
32 make contributions to the Local Government Law Enforcement Special Separation
33 Allowance Fund established in G.S. 147-69.5."

34 **SECTION 10.** Article 3 of Chapter 159 of the General Statutes is amended
35 by adding a new section to read:

36 **§ 159-30.2 Trust for law enforcement special separation allowance benefits.**

37 (a) Trust. – A unit of local government employing local law enforcement officers
38 may establish and fund an irrevocable trust for the purpose of paying law enforcement
39 special separation allowance benefits for which the unit of local government is liable.
40 The irrevocable trust must be established by resolution or ordinance of the unit's
41 governing board. The resolution or ordinance must state the purposes for which the trust
42 is created and the method of determining and selecting the Fund's trustees. The
43 resolution or ordinance establishing the trust may be amended from time to time, but an

1 amendment may not authorize the use of monies in the trust for a purpose not stated in
2 the resolution or ordinance establishing the trust.

3 (b) Restrictions. – Monies in an irrevocable trust established under subsection (a)
4 of this section may be appropriated only for the purposes for which the trust was
5 established. Monies in the trust are not subject to the claims of creditors of the entity
6 that established the trust. A unit of local government that establishes a trust may not
7 deposit money in the trust if the total amount held in trust would exceed the unit's
8 actuarial liability, determined in accordance with the standards of the Governmental
9 Accounting Standards Board, for the purpose for which the trust was established."

10 **SECTION 11.** This act is effective when it becomes law.