

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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SENATE BILL 558

Short Title: Treasurer's Investments. (Public)

Sponsors: Senator Hise (Primary Sponsor).

Referred to: Pensions & Retirement and Aging.

April 1, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW GOVERNING THE STATE TREASURER'S  
3 INVESTMENT AUTHORITY WITH REGARD TO SPECIAL FUNDS HELD BY THE  
4 TREASURER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 147-69.2(b) reads as rewritten:

7 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
8 in subsection (a) of this section in excess of the amount required to meet the current needs and  
9 demands on such funds. The State Treasurer may invest the funds as provided in this  
10 subsection. If an investment was authorized by this subsection at the time the investment was  
11 made or contractually committed to be made, then that investment shall continue to be  
12 authorized by this subsection, and none of the percentage or other limitation on investments set  
13 forth in this subsection shall be construed to require the State Treasurer to subsequently dispose  
14 of the investment or fail to honor any contractual commitments as a result of changes in market  
15 values, ratings, or other investment qualifications. For purposes of computing market values on  
16 which percentage limitations on investments in this subsection are based, all investments shall  
17 be valued as of the last date of the most recent fiscal quarter.

18 (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).

19 (2) General obligations of other states of the United States.

20 (3) General obligations of cities, counties and special districts in North Carolina.

21 (4) Obligations of any company, other organization or legal entity incorporated  
22 or otherwise created or located within or outside the United States, including  
23 obligations that are convertible into equity securities, if the obligations bear  
24 one of the four highest ratings of at least one nationally recognized rating  
25 service when acquired.

26 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.

27 (6) Asset-backed securities (whether considered debt or equity) provided they  
28 bear ratings by nationally recognized rating services as provided in  
29 G.S. 147-69.2(b)(4).

30 (6a) In addition to the limitations and requirements with respect to the  
31 investments of the Retirement Systems set forth in this subsection, the State  
32 Treasurer shall select investments of the assets of the Retirement Systems  
33 such that investments made pursuant to subdivisions (b)(1) through (6) of  
34 this section shall at all times equal or exceed twenty percent (20%) of the  
35 market value of all invested assets of the Retirement Systems.



- 1 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may  
2 be made directly by the State Treasurer or through contractual arrangements  
3 in which the investment manager has full and complete discretion and  
4 authority to invest assets specified in such arrangements in investments  
5 authorized by subdivisions (b)(1) through (6) of this section, provided for  
6 each indirect investment, the investment manager has assets under  
7 management of at least one hundred million dollars (\$100,000,000).
- 8 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),  
9 they may be invested in ~~obligations and other obligations~~, debt securities, and  
10 asset-backed securities, whether considered debt or equity, including ~~debt~~  
11 obligations and securities convertible into other securities, that do not meet  
12 the requirements of any of subdivisions (b)(1) through (6) of this section nor  
13 subdivision (b)(7) of this section, provided such investments are made  
14 through investment companies registered under the Investment Company  
15 Act of 1940, individual, common, or collective trust funds of banks and trust  
16 companies, group trusts and limited partnerships, limited liability companies  
17 or other limited liability investment vehicles that invest primarily in  
18 investments authorized by this subdivision and through contractual  
19 arrangements in which the investment manager has full and complete  
20 discretion and authority to invest assets specified in such arrangements in  
21 investments authorized by this subdivision, provided the investment  
22 manager for each investment pursuant to this subdivision has assets under  
23 management of at least one hundred million dollars (\$100,000,000) and  
24 provided that the investments authorized under this subdivision shall not  
25 exceed ~~five percent (5%) of the market value of all invested assets of the~~  
26 ~~Retirement Systems~~ the limitations set forth in subdivision (10a) of this  
27 subsection.
- 28 (7) With respect to Retirement Systems' assets referred to in subdivision (8) of  
29 this subsection, (i) insurance contracts that provide for participation in  
30 individual or pooled separate accounts of insurance companies, (ii) group  
31 trusts, (iii) individual, common, or collective trust funds of banks and trust  
32 companies, (iv) real estate investment trusts, (v) investment companies  
33 registered under the Investment Company Act of 1940, ~~and~~ (vi) limited  
34 partnerships, limited liability companies, or other limited liability investment  
35 ~~vehicles;~~ vehicles, and (vii) contractual arrangements in which the  
36 investment manager has discretion and authority to invest assets specified in  
37 such arrangements in investments authorized by this subsection; provided  
38 the investment manager has assets under management of at least one  
39 hundred million dollars (\$100,000,000); provided such investment assets are  
40 managed primarily for the purpose of investing in or owning real estate or  
41 related debt ~~financing~~ financing, excluding asset-backed financing, located  
42 within or outside the United States; and provided that the investments  
43 authorized by this subdivision shall not exceed ~~ten percent (10%) of the~~  
44 ~~market value of all invested assets of the Retirement Systems~~ the limitations  
45 set forth in subdivision (10a) of this subsection.
- 46 (8) With respect to assets of the Teachers' and State Employees' Retirement  
47 System, the Consolidated Judicial Retirement System, the Firemen's and  
48 Rescue Workers' Pension Fund, the Local Governmental Employees'  
49 Retirement System, the Legislative Retirement System, the North Carolina  
50 National Guard Pension Fund, and the Retiree Health Benefit Fund  
51 (hereinafter referred to collectively as the Retirement Systems), and assets

1 invested pursuant to subdivision (b2) of this section, they may be invested in  
2 equity securities traded on a public securities exchange or market organized  
3 and regulated pursuant to the laws of the jurisdiction of such exchange or  
4 market and issued by any company incorporated or otherwise created or  
5 located within or outside the United States; provided the investments meet  
6 the conditions of this subdivision. The investments authorized for the  
7 Retirement Systems under this subdivision cannot exceed sixty-five percent  
8 (65%) of the market value of all invested assets of the Retirement Systems.

9 The assets authorized under this subdivision may be invested directly by  
10 the State Treasurer in any equity securities authorized by this subdivision for  
11 the primary purpose of approximating the movements of a nationally  
12 recognized and published market benchmark ~~index. No more than one and~~  
13 ~~one-half percent (1.5%) of the market value of the Retirement Systems'~~  
14 ~~assets that may be invested directly under this subdivision can be invested in~~  
15 ~~the stock of a single corporation, index within one-half percent (0.50%) per~~  
16 ~~annum. The total number of shares in any single corporation in which the~~  
17 ~~Treasurer directly invests and the total number of shares in that single~~  
18 ~~corporation cannot exceed eight percent (8%) of the issued and outstanding~~  
19 ~~stock of that corporation.~~

20 So long as each investment manager has assets under management of at  
21 least one hundred million dollars (\$100,000,000), the assets authorized under  
22 this subdivision may also be invested through any of the following:

- 23 a. Investment companies registered under the Investment Company Act  
24 of 1940; individual, common, or collective trust funds of banks and  
25 trust companies; and group trusts that invest primarily in investments  
26 authorized by this subdivision.
- 27 b. Limited partnerships, limited liability companies, or other limited  
28 liability investment vehicles that are not publicly traded and invest  
29 primarily in investments authorized by this subdivision. Investments  
30 under this sub-subdivision shall not exceed ~~six and one-half percent~~  
31 ~~(6.5%) of the market value of all invested assets of the Retirement~~  
32 ~~Systems; the limitations set forth in subdivision (10a) of this~~  
33 ~~subsection.~~
- 34 c. Contractual arrangements in which investment managers have full  
35 and complete discretion and authority to invest assets specified in  
36 such contractual arrangements in investments authorized by this  
37 subdivision.

- 38 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)  
39 of this subsection, they may be invested in interests in limited partnerships,  
40 limited liability companies, or other limited liability investment vehicles that  
41 are not publicly traded if the primary purpose of the limited partnership,  
42 limited liability company, or other limited liability investment vehicle is (i)  
43 to invest in private equity, or corporate buyout transactions, within or  
44 outside the United States or (ii) to engage in other strategies not expressly  
45 authorized by any other subdivision of this subsection. The amount invested  
46 under this subdivision shall not exceed ~~seven and one-half percent (7.5%) of~~  
47 ~~the market value of all invested assets of the Retirement Systems; the~~  
48 ~~limitations set forth in subdivision (10a) of this subsection.~~

- 49 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)  
50 of this subsection, they may be invested in inflation-linked bonds,  
51 timberlands, commodities, and other ~~assets~~investments that are acquired by

1 the Treasurer for the primary purpose of providing protection against risks  
2 associated with inflation, provided such investments are made through  
3 investment companies registered under the Investment Company Act of  
4 1940, individual, common or collective trust funds of banks and trust  
5 companies, group trusts and limited partnerships, limited liability companies  
6 or other limited liability investment vehicles that invest primarily in  
7 investments authorized by this subdivision and through contractual  
8 arrangements in which the investment manager has full and complete  
9 discretion and authority to invest assets specified in such arrangements in  
10 investments authorized by this subdivision, provided the investment  
11 manager for each investment pursuant to this subdivision has assets under  
12 management of at least one hundred million dollars (\$100,000,000) and  
13 provided that the investments authorized under this subdivision shall not  
14 exceed five percent (5%) of the market value of all invested assets of the  
15 Retirement Systems. ~~Notwithstanding anything in this subsection to the~~  
16 ~~contrary, the investments authorized by this subdivision shall not be~~  
17 ~~included in any subdivision other than this subdivision for purposes of the~~  
18 ~~percentage investment limitations therein or otherwise.~~ the limitations set  
19 forth in subdivision (10a) of this subsection.

20 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.

21 (10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of  
22 this subsection, the market value of any of subdivision (6c) or (7),  
23 sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this  
24 subsection shall not exceed fifteen percent (15%) of the market value of all  
25 invested assets of the Retirement Systems; and the aggregate market value of  
26 all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b.  
27 of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not  
28 exceed forty percent (40%) of the market value of all invested assets of the  
29 Retirement Systems. In the event that the market value of any of subdivision  
30 (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a)  
31 of this subsection increases during a fiscal year by an amount greater than  
32 three percent (3%) of the market value of all invested assets of the  
33 Retirement Systems as of the prior fiscal year end, then the quarterly report  
34 provided by the Treasurer pursuant to G.S. 147-68(d1) shall describe how  
35 that increase complies with the duties described in G.S. 147-69.7 and the  
36 consequent expected impact on the risk profile of the Retirement Systems'  
37 assets.

38 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina  
39 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed  
40 twenty-five million dollars (\$25,000,000), that have a final maturity not later  
41 than October 1, 2014. The obligations shall bear interest at the rate set by the  
42 State Treasurer. No commitment to purchase obligations may be made  
43 pursuant to this subdivision after September 1, 1993, and no obligations may  
44 be purchased after September 1, 1994. In the event of a loss to the Escheat  
45 Fund by reason of an investment made pursuant to this subdivision, it is the  
46 intention of the General Assembly to hold the Escheat Fund harmless from  
47 the loss by appropriating to the Escheat Fund funds equivalent to the loss.

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

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

7 **SECTION 2.** G.S. 147-69.7 reads as rewritten:

8 **"§ 147-69.7. Discharge of duties to Retirement Systems.**

9 (a) The Treasurer shall discharge his or her duties with respect to the ~~Teachers' and~~  
10 ~~State Employees' Retirement System, the Consolidated Judicial Retirement System, the~~  
11 ~~Firemen's and Rescue Squad Workers' Pension Fund, the Local Governmental Employees'~~  
12 ~~Retirement System, the Legislative Retirement System, and the North Carolina National Guard~~  
13 ~~Pension Fund (hereinafter referred to collectively as the Retirement Systems)~~Retirement  
14 Systems enumerated in G.S. 147-69.2(b)(8) as follows:

- 15 (1) Solely in the interest of the participants and beneficiaries.  
16 (2) For the exclusive purpose of providing benefits to participants and  
17 beneficiaries and paying reasonable expenses of administering the  
18 Retirement Systems.  
19 (3) With the care, skill, and caution under the circumstances then prevailing  
20 which a prudent person acting in a like capacity and familiar with those  
21 matters would use in the conduct of an activity of like character and purpose.  
22 (4) Impartially, taking into account any differing interests of participants and  
23 beneficiaries.  
24 (5) Incurring only costs that are appropriate and reasonable.  
25 (6) In accordance with a good-faith interpretation of the law governing the  
26 Retirement Systems.

27 (b) In investing and managing assets of the Retirement Systems pursuant to subsection  
28 (a) of this section, the Treasurer:

- 29 (1) Shall consider the following circumstances:  
30 a. General economic conditions.  
31 b. The possible effect of inflation or deflation.  
32 c. The role that each investment or course of action plays within the  
33 overall portfolio of the Retirement Systems.  
34 d. The expected total return from income and the appreciation of  
35 capital.  
36 e. Needs for liquidity, regularity of income, and preservation or  
37 appreciation of capital.  
38 f. The adequacy of funding for the Retirement Systems based on  
39 reasonable actuarial factors.  
40 (2) Shall diversify the investments of the Retirement Systems unless the  
41 Treasurer reasonably determines that, because of special circumstances, it is  
42 clearly prudent not to do so.  
43 (3) Shall make a reasonable effort to verify facts relevant to the investment and  
44 management of assets of the Retirement Systems.  
45 (4) May invest in any kind of property or type of investment consistent with the  
46 provisions of Article 6 of Chapter 146 of the General Statutes.  
47 (5) May consider benefits created by an investment in addition to investment  
48 return only if the Treasurer determines that the investment providing these  
49 collateral benefits would be prudent even without collateral benefits.

1 (c) Compliance by the Treasurer with this section must be determined in light of the  
2 facts and circumstances existing at the time of the Treasurer's decision or action and not by  
3 hindsight.

4 (d) The Treasurer's investment and management decisions must be evaluated not in  
5 isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of  
6 an overall investment strategy having risk and return objectives reasonably suited to the  
7 Retirement Systems."

8 **SECTION 3.** This act becomes effective July 1, 2013.