

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 632*
Finance Committee Substitute Adopted 4/29/09

Short Title: Treasurer's Governance & Transparency Act.

(Public)

Sponsors:

Referred to:

March 17, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE TREASURER'S GOVERNANCE AND TRANSPARENCY ACT
3 OF 2009.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 147-69.2(b1) reads as rewritten:

6 "(b1) With respect to investments authorized by subsections ~~(b)(8)(b)(7)~~, (b)(8), and
7 (b)(9) of this section, the State Treasurer shall appoint an Investment Advisory Committee,
8 which shall consist of ~~five~~ seven members: the State Treasurer, who shall be chairman ex
9 officio; two members selected from among the members of the boards of trustees of the
10 Retirement Systems; and ~~two~~ four members selected from the general public. The ~~two~~ four
11 public members must have experience in areas relevant to the administration of a large,
12 diversified investment program, including, but not limited to, one or more of the following
13 areas: investment management, real estate investment trusts, real estate development, venture
14 capital investment, or absolute return strategies. investment management, securities law, real
15 estate development, or absolute return strategies. The State Treasurer shall also appoint a
16 Secretary of the Investment Advisory Committee who need not be a member of the committee.
17 Members of the committee shall receive for their services the same per diem and allowances
18 granted to members of the State boards and commissions generally. The committee shall have
19 advisory powers only and membership shall not be deemed a public office within the meaning
20 of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1."

21 **SECTION 2.** Article 6 of Chapter 147 of the General Statutes is amended by
22 adding a new section to read:

23 **§ 147-69.7. Discharge of duties to Retirement Systems.**

24 (a) The Treasurer shall discharge his or her duties with respect to the Teachers' and
25 State Employees' Retirement System, the Consolidated Judicial Retirement System, the
26 Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement
27 System, the Legislative Retirement System, and the North Carolina National Guard Pension
28 Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

- 29 (1) Solely in the interest of the participants and beneficiaries.
30 (2) For the exclusive purpose of providing benefits to participants and
31 beneficiaries and paying reasonable expenses of administering the
32 Retirement Systems.
33 (3) With the care, skill, and caution under the circumstances then prevailing
34 which a prudent person acting in a like capacity and familiar with those
35 matters would use in the conduct of an activity of like character and purpose.
36 (4) Impartially, taking into account any differing interests of participants and
37 beneficiaries.



- 1 (5) Incurring only costs that are appropriate and reasonable.
2 (6) In accordance with a good-faith interpretation of the law governing the
3 Retirement Systems.
4 (b) In investing and managing assets of the Retirement Systems pursuant to subsection
5 (a) of this section, the Treasurer:
6 (1) Shall consider the following circumstances:
7 a. General economic conditions.
8 b. The possible effect of inflation or deflation.
9 c. The role that each investment or course of action plays within the
10 overall portfolio of the Retirement Systems.
11 d. The expected total return from income and the appreciation of
12 capital.
13 e. Needs for liquidity, regularity of income, and preservation or
14 appreciation of capital.
15 f. The adequacy of funding for the Retirement Systems based on
16 reasonable actuarial factors.
17 (2) Shall diversify the investments of the Retirement Systems unless the
18 Treasurer reasonably determines that, because of special circumstances, it is
19 clearly prudent not to do so.
20 (3) Shall make a reasonable effort to verify facts relevant to the investment and
21 management of assets of the Retirement Systems.
22 (4) May invest in any kind of property or type of investment consistent with the
23 provisions of Article 6 of Chapter 146 of the General Statutes.
24 (5) May consider benefits created by an investment in addition to investment
25 return only if the Treasurer determines that the investment providing these
26 collateral benefits would be prudent even without collateral benefits.
27 (c) Compliance by the Treasurer with this section must be determined in light of the
28 facts and circumstances existing at the time of the Treasurer's decision or action and not by
29 hindsight.
30 (d) The Treasurer's investment and management decisions must be evaluated not in
31 isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of
32 an overall investment strategy having risk and return objectives reasonably suited to the
33 Retirement Systems."

34 **SECTION 3.** This act is effective when it becomes law.