

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 632*
Finance Committee Substitute Adopted 4/29/09
House Committee Substitute Favorable 6/3/09

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.



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

36 **SECTION 3.** Article 6 of Chapter 147 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 147-69.8. Annual report on new investment authority.**

39 Whenever the General Assembly broadens the investment authority of the State Treasurer
40 as to the General Fund, the Teachers' and State Employees' Retirement System, the
41 Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund,
42 the Local Governmental Employees' Retirement System, the Legislative Retirement System,
43 the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall
44 annually report in detail to the General Assembly the investments made under such new
45 authority, including the returns on those investments, earnings, changes to value, and gains and
46 losses in disposition of such investments. The report shall be made during the first six months
47 of each calendar year, covering performance in the prior calendar year. As to each type of new
48 investment authority, the report shall be made for at least four years."

49 **SECTION 4.** This act is effective when it becomes law.