

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 691
RATIFIED BILL

AN ACT TO PERMIT DISCLOSURE OF CERTAIN TAX INFORMATION OF LOCAL GOVERNMENTS TO THE DEPARTMENT OF STATE TREASURER AND TO ENACT THE TREASURER'S GOVERNANCE AND TRANSPARENCY ACT OF 2009.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(39) To furnish the Department of State Treasurer with information it requests about whether a unit of local government has timely filed a withholding report, has been charged a penalty, or has paid a penalty, as such information may be helpful in auditing local government accounts pursuant to G.S. 159-34 and determining compliance with the Local Government Finance Act."

SECTION 2. G.S. 147-69.2(b1) reads as rewritten:

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

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

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

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

- (1) Solely in the interest of the participants and beneficiaries.
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.



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

SECTION 4. Article 6 of Chapter 147 of the General Statutes is amended by adding a new section to read:

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

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

SECTION 5. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 1st day of July, 2009.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009