

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 2728  
Senate Pensions, Retirement & Aging Committee Substitute Adopted 7/8/08

Short Title: Supplemental Retirement Bd. Trustees/Inv Emp. (Public)

Sponsors:

Referred to:

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE THE BOARD OF TRUSTEES FOR THE NORTH CAROLINA 401(K) PLAN AND THE BOARD OF TRUSTEES OF THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN INTO THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES, AND CONCERNING COMPENSATION OF EMPLOYEES IN THE INVESTMENT DIVISION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-91(a) reads as rewritten:

"(a) The provisions of this Article shall be administered by the Department of State Treasurer and a Board of Trustees consisting of the Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System. the Supplemental Retirement Board of Trustees established in G.S. 135-96. The Department of State Treasurer and the Board of Trustees shall create a Supplemental Retirement Income Plan as of January 1, 1985, to be administered under the provisions of this Article."

**SECTION 2.** Article 5 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**§ 135-96. Supplemental Retirement Board of Trustees.**

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under G.S. 143B-426.24.

(b) The Board consists of nine voting members, as follows:

(1) Six persons appointed by the Governor who have experience in finance and investments, one of whom shall be a State employee;

(2) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;

1           (3) One person appointed by the General Assembly upon the  
2           recommendation of the President Pro Tempore of the Senate; and

3           (4) The State Treasurer, ex officio, who shall be the Chair.

4           (c) The initial appointments by the General Assembly and two of the Governor's  
5 initial appointments shall be for one-year terms. The remainder of the initial  
6 appointments shall be for two-year terms. At the expiration of these initial terms,  
7 appointments shall be for two years and shall be made by the appointing authorities  
8 designated in subsection (b) of this section. A member shall continue to serve until the  
9 member's successor is duly appointed, but a holdover under this provision does not  
10 affect the expiration date of the succeeding term. No member of the Board may serve  
11 more than three consecutive two-year terms.

12           (d) Other than ex officio members, members appointed by the Governor shall  
13 serve at the Governor's pleasure. An ex officio member may designate in writing, filed  
14 with the Board, any employee of the member's department to act at any meeting of the  
15 Board from which the member is absent, to the same extent that the member could act if  
16 present in person at such meeting."

17           **SECTION 3.** G.S. 143B-426.24 reads as rewritten:

18           "**§ 143B-426.24. ~~Board of Trustees of the North Carolina Public Employee~~**  
19           **~~Deferred Compensation Plan.~~**

20           (a) The Governor may, by Executive Order, establish a Board of Trustees of the  
21 North Carolina Public Employee Deferred Compensation Plan, which when established  
22 shall be constituted an agency of the State of North Carolina within the Department of  
23 State Treasurer. The Board shall create, establish, implement, coordinate and administer  
24 a Deferred Compensation Plan for employees of the State, any county or municipality,  
25 the North Carolina Community College System, and any political subdivision of the  
26 State. Until so established, the Board heretofore established pursuant to Executive Order  
27 XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore  
28 established shall continue until a new plan is established. Effective July 1, 2008, the  
29 Plan shall be administered by the Supplemental Retirement Board of Trustees  
30 established under G.S. 135-96.

31           ~~(b) The Board shall consist of seven voting members, as follows:~~

32           ~~(1) Three persons shall be appointed by the Governor who shall have~~  
33           ~~experience with taxation, finance and investments, one of whom shall~~  
34           ~~be a State employee;~~

35           ~~(2) One member shall be appointed by the General Assembly upon~~  
36           ~~recommendation of the Speaker of the House of Representatives under~~  
37           ~~G.S. 120-121;~~

38           ~~(3) One member shall be appointed by the General Assembly upon~~  
39           ~~recommendation of the President Pro Tempore of the Senate under~~  
40           ~~G.S. 120-121;~~

41           ~~(4) The Secretary of Administration, ex officio; and~~

42           ~~(5) The State Treasurer, ex officio, chairman.~~

43           ~~(c) General Assembly appointments shall serve two year terms. A member shall~~  
44 ~~continue to serve until his successor is duly appointed but a holdover under this~~

1 ~~provision does not affect the expiration date of the succeeding term. No member of the~~  
2 ~~Board may serve more than three consecutive two-year terms.~~

3 ~~(d) In case of a vacancy on the Board before the expiration of a member's term, a~~  
4 ~~successor shall be appointed within 30 days of the vacancy for the remainder of the~~  
5 ~~unexpired term by the appropriate official pursuant to subsection (b). Vacancies in~~  
6 ~~legislative appointments shall be filled under G.S. 120-122.~~

7 ~~(e) Other than ex officio members, members appointed by the Governor shall~~  
8 ~~serve at his pleasure.~~

9 ~~(f) Any ex officio member may designate in writing, filed with the Board, any~~  
10 ~~employee of his department to act at any meeting of the Board from which the member~~  
11 ~~is absent, to the same extent that the member could act if present in person at such~~  
12 ~~meeting.~~

13 (g) It shall be the duty of the Supplemental Retirement Board ~~when established~~ to  
14 review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2  
15 and Executive Order XII to include, but not be limited to, such contracts, agreements or  
16 arrangements pertaining to the administrative services and the investment of deferred  
17 funds under the Plan for the purpose of recommending continuation of or changes to  
18 such contracts, agreements or arrangements.

19 (h) It shall be the duty of the Supplemental Retirement Board to devise a uniform  
20 Deferred Compensation Plan for teachers and employees, which shall include a  
21 reasonable number of options to the teacher or employee, for the investment of deferred  
22 funds, among which may be life insurance, fixed or variable annuities and retirement  
23 income contracts, regulated investment trusts, pooled investment funds managed by the  
24 Board or its designee, or other forms of investment approved by the Board, always in  
25 such form as will assure the desired tax treatment of such funds. The Board may alter,  
26 revise and modify the Plan from time to time to improve the Plan or to conform to and  
27 comply with requirements of State and federal laws and regulations relating to the  
28 deferral of compensation of teachers and public employees generally.

29 (h1) Notwithstanding any other law, an employee of any county or municipality,  
30 an employee of the North Carolina Community College System, or an employee of any  
31 political subdivision of the State may participate in any 457 Plan adopted by the State,  
32 with the consent of the Supplemental Retirement Board and with the consent of the  
33 proper governing authority of such county, municipality, community college, or  
34 political subdivision of the State where such employee is employed.

35 (i) The Supplemental Retirement Board is authorized to delegate the  
36 performance of such of its administrative duties as it deems appropriate including  
37 coordination, administration, and marketing of the Plan to teachers and employees. Prior  
38 to entering into any contract with respect to such administrative duties, it shall seek  
39 bids, hold public hearings and in general take such steps as are calculated by the Board  
40 to obtain competent, efficient and worthy services for the performance of such  
41 administrative duties.

42 (j) The Supplemental Retirement Board may acquire investment vehicles from  
43 any company duly authorized to conduct such business in this State or may establish,  
44 alter, amend and modify, to the extent it deems necessary or desirable, a trust for the

1 purpose of facilitating the administration, investment and maintenance of assets  
2 acquired by the investment of deferred funds. All assets of the Plan, including all  
3 deferred amounts, property and rights purchased with deferred amounts, and all income  
4 attributed thereto shall be held in trust for the exclusive benefit of the Plan participants  
5 and their beneficiaries.

6 ~~(k) Members of the Board, who are not officers or employees of the State, shall~~  
7 ~~receive per diem and necessary travel and subsistence in accordance with the provisions~~  
8 ~~of G.S. 138-5, funded as provided in subsection (m) hereof.~~

9 ~~(l) All clerical and other services and personnel required by the Board shall be~~  
10 ~~supplied by the Department of State Treasurer, funded as provided in subsection (m)~~  
11 ~~hereof.~~

12 (m) Investment of deferred funds shall not be unreasonably delayed, and in no  
13 case shall the investment of deferred funds be delayed more than 30 days. The  
14 Supplemental Retirement Board may accumulate such funds pending investment, and  
15 the interest earned on such funds pending investment shall be available to and may be  
16 spent in the discretion of the Board only for the reasonable and necessary expenses of  
17 the Board. The State Treasurer is authorized to prescribe guidelines for the expenditure  
18 of such funds by the Board. From time to time as the Board may direct, funds not  
19 required for such expenses may be used to defray administrative expenses and fees  
20 which would otherwise be required to be borne by teachers and employees who are then  
21 participating in the Plan.

22 ~~(n) A majority of the Board shall constitute a quorum for the transaction of~~  
23 ~~business.~~

24 (o) It is intended that the provisions of this Part shall be liberally construed to  
25 accomplish the purposes provided for herein."

26 **SECTION 4.** Notwithstanding the provisions of G.S. 135-91,  
27 G.S. 143B-426.24, or any other provision of law, effective from July 1, 2008, through  
28 June 30, 2009, the North Carolina 401(k) Plan and the North Carolina Public Employee  
29 Deferred Compensation Plan shall be administered by a transitional Board of Trustees.  
30 The transitional Board of Trustees shall consist of nine members, as follows:

- 31 (1) The two members of the Board of Trustees of the North Carolina  
32 401(k) Plan who serve by virtue of their appointment to the Board of  
33 Trustees of the Teachers' and State Employees' Retirement System by  
34 the General Assembly pursuant to G.S. 135-6(b)(4);
- 35 (2) The two members of the Board of Trustees of the North Carolina  
36 Deferred Compensation Plan appointed by the General Assembly  
37 pursuant to G.S. 143B-426.24(2) and (3);
- 38 (3) Two of the members of the Board of Trustees of the North Carolina  
39 401(k) Plan who serve by virtue of their appointment to the Board of  
40 Trustees of the Teachers' and State Employees' Retirement System by  
41 the Governor pursuant to G.S. 135-6(b)(3), to be determined by the  
42 Governor;

1           (4) Two of the members of the Board of Trustees of the North Carolina  
2           Deferred Compensation Plan appointed by the Governor pursuant to  
3           G.S. 143B-426.24(1), to be determined by the Governor;

4           (5) The State Treasurer, ex officio, who shall serve as Chair.

5           **SECTION 5.** In order to retain key public employees in the Investment  
6           Division, the State Treasurer is authorized to establish compensation including bonuses  
7           for the Chief Investment Officer and Investment Directors. The bonuses may be based  
8           on compensation studies conducted by a nationally recognized firm specializing in  
9           public fund investment compensation and the Pension Plan performance. The salaries  
10          and other associated benefits shall be apportioned directly from the investment program.  
11          The Treasurer shall report the bonuses paid to the Joint Legislative Commission on  
12          Governmental Operations annually.

13          **SECTION 6.** Sections 1 through 3 of this act become effective July 1, 2009.  
14          The remainder of this act becomes effective July 1, 2008.