

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH70148-LL-106 (3/7)

Short Title: Local Bds of Education/403(b) Option.

(Public)

Sponsors: Representative Fisher.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF STATE TREASURER TO CREATE A
3 CENTRALIZED 403(B) RETIREMENT ANNUITY PLAN AS AN OPTION FOR
4 EMPLOYEES OF LOCAL BOARDS OF EDUCATION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 115C-341 reads as rewritten:

7 "**§ 115C-341. Annuity ~~contracts.~~ contracts from local boards of education.**

8 Notwithstanding the provisions of this Chapter for the adoption of State and local salary
9 schedules for the pay of teachers, principals, superintendents, and other school employees, local
10 boards of education may enter into annual contracts with any employee of such board which
11 provide for a reduction in salary below the total established compensation or salary schedule
12 for a term of one year. The local board of education shall use the funds derived from the
13 reduction in the salary of the employee to purchase a nonforfeitable annuity contract for the
14 benefit of said employee. An employee who has agreed to a salary reduction for this purpose
15 shall not have the right to receive the amount of the salary reduction in cash or in any other way
16 except the annuity contract. Funds used by the local boards of education for the purchase of an
17 annuity contract shall not be in lieu of any amount earned by the employee before his election
18 for a salary reduction has become effective.

19 The agreement for salary reductions referred to herein shall be effected under any necessary
20 regulations and procedures adopted by the State Board of Education and on forms prepared by
21 the State Board of Education.

22 Notwithstanding any other provisions of this section, the amount by which the salary of any
23 employee is reduced pursuant to this section shall be included in computing and making payroll
24 deductions for social security and retirement system purposes, and in computing and providing
25 matching funds for retirement system purposes.

26 In lieu of the annuity contracts provided for under this section, interests in custodial
27 accounts pursuant to Section 401(f), Section 403(b)(7), and related sections of the Internal
28 Revenue Code of 1986 as amended may be purchased by local boards of education for the
29 benefit of qualified employees under this section with the funds derived from the reduction in
30 the salaries of such employees."

31 **SECTION 2.** Article 23 of Chapter 115C of the General Statutes is amended by
32 adding a new section to read:

33 "**§ 115C-341A. Annuity contracts from the Department of State Treasurer.**

34 (a) In addition to the opportunities for local boards of education to offer Section 403(b)
35 retirement annuities to their employees under G.S. 115C-341, the Department of State



1 Treasurer may establish a centralized list of approved third-party vendors of annuity contracts
2 and custodial accounts as are described in Section 403(b) of the Internal Revenue Code of
3 1986, as now and hereafter amended, pursuant to which employees of local school boards may
4 enter into nonforfeitable annuity contracts by way of salary reduction through the auspices of
5 the Department of State Treasurer. The vendor list authorized under this section shall be
6 established, maintained, and amended by use of State procurement procedures, with the goal of
7 attaining lower administrative fees for participants and improved compliance with applicable
8 law by vendors. Eligible employees of local school boards shall all be allowed to select from
9 this centralized list the tax-deferred annuity of their choice; and employees' rights to make this
10 selection shall not be interfered with by their respective local school employers or those
11 employers' vendors.

12 (b) The following criteria apply to the Department of State Treasurer's Section 403(b)
13 offerings to employees of local school boards under this section:

14 (1) Annuity contracts and custodial accounts may be administered by a qualified
15 third-party administrator that shall, under written agreement with the
16 Department of State Treasurer, provide custodial, record-keeping, or
17 administrative services, or any combination of those services. The
18 third-party administrator may not provide investment options.

19 If the Department uses a third-party administrator for administrative
20 services, that administrator shall, at a minimum:

21 a. Maintain written plan documents;

22 b. Review hardship withdrawal requests, loan requests, and other
23 disbursements permitted under Section 403(b);

24 c. Maintain specimen salary reduction agreements for the employer and
25 employees of that employer to initiate payroll deferrals;

26 d. Monitor maximum contributions;

27 e. Coordinate responses to the Internal Revenue Service in any case of
28 an IRS audit;

29 f. Generate educational communication materials to employees
30 concerning the enrollment process, program eligibility, and
31 investment options;

32 g. Maintain internal reports to ensure compliance with Section 403(b)
33 of the Internal Revenue Code and Title 26 of the Code of Federal
34 Regulations; and

35 h. Keep an updated schedule of vendor fees and commissions.

36 (2) Investment options shall be determined by the Department of State Treasurer
37 consistent with those annuity contract and custodial accounts described in
38 Section 403(b) of the Internal Revenue Code of 1986, as amended.

39 (3) Investment staff of the Department of State Treasurer may make
40 recommendations to the State Treasurer as to appropriate investment
41 options. At a minimum, the State Treasurer shall offer at least three
42 investment options. The State Treasurer shall have sole responsibility for the
43 selection of service providers.

44 (4) All contributions made in accordance with the provisions of Section 403(b)
45 of the Internal Revenue Code of 1986, as amended, and this section shall be
46 remitted directly to the administrator in a custodial account on behalf of each
47 participating employee. Any investment gains or losses shall be credited to
48 those accounts. The forms of payment and disbursement procedures shall be
49 consistent with those generally offered by similar annuity contracts and
50 custodial accounts and applicable federal and State statutes governing those
51 contracts and accounts.

- 1 (5) Any local board of education may elect to make contributions to the
2 employee's annuity contract and custodial account on behalf of the
3 employee. The employer shall take whatever action is necessary to
4 implement this section.
5 (6) The design and administration of the annuity contracts and custodial
6 accounts under this provision shall comply with the applicable provisions of
7 the Internal Revenue Code of 1986, as amended."

8 **SECTION 3.** This act becomes effective July 1, 2011.