

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 264  
PROPOSED SENATE COMMITTEE SUBSTITUTE H264-PCS20378-SH-54

Short Title: Community Colleges 403(b) Plan.-AB

(Public)

Sponsors:

Referred to:

March 18, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW COMMUNITY COLLEGES TO PARTICIPATE IN THE 403(B)  
3 SUPPLEMENTAL RETIREMENT PLAN.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 115D-25 reads as rewritten:

6 "**§ 115D-25. Purchase of annuity or retirement income contracts for ~~employees~~employees**  
7 **by local boards of trustees.**

8 Notwithstanding any provision of law relating to salaries or salary schedules for the pay of  
9 faculty members, administrative officers, or any other employees of community colleges, the  
10 board of trustees of any of the above institutions may authorize the finance officer or agent of  
11 same to enter into annual contracts with any of the above officers, agents and employees which  
12 provide for reductions in salaries below the total established compensation or salary schedule  
13 for a term of one year. The financial officer or agent shall use the funds derived from the  
14 reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or  
15 retirement income contract for the benefit of said officer, agent or employee. An officer, agent  
16 or employee who has agreed to a salary reduction for this purpose shall not have the right to  
17 receive the amount of the salary reduction in cash or in any other way except the annuity or  
18 retirement income contract. Funds used for the purchase of an annuity or retirement income  
19 contract shall not be in lieu of any amount earned by the officer, agent or employee before his  
20 election for a salary reduction has become effective. The agreement for salary reductions  
21 referred to in this section shall be effected under any necessary regulations and procedures  
22 adopted by the State Board of Community Colleges and on forms prepared by the State Board  
23 of Community Colleges. Notwithstanding any other provisions of this section or law, the  
24 amount by which the salary of an officer, agent or employee is reduced pursuant to this section  
25 shall not be excluded, but shall be included, in computing and making payroll deductions for  
26 social security and retirement system purposes, and in computing and providing matching  
27 funds for retirement system purposes.

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

33 **SECTION 2.** Article 2 of Chapter 115D of the General Statutes is amended by  
34 adding a new section to read:

35 "**§ 115D-25.4. Department of State Treasurer-sponsored 403(b) option.**



\* H 2 6 4 - P C S 2 0 3 7 8 - S H - 5 4 \*

1       (a) In addition to the opportunities for local boards of trustees to offer section 403(b) of  
2 the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees  
3 under G.S. 115D-25, local boards of trustees may also offer the "North Carolina Public School  
4 Teachers' and Professional Educators' Investment Plan" as operated by the Department of State  
5 Treasurer.

6       (b) The criteria in this subsection apply to the Department of State Treasurer's 403(b)  
7 offerings to employees of local boards of trustees under this section:

8           (1) Annuity contracts, trust accounts, and/or custodial accounts shall be  
9 administered by a qualified third-party administrator that shall, under written  
10 agreement with the Department of State Treasurer, provide custodial,  
11 record-keeping, and administrative services. The third-party administrator  
12 may also be the selected vendor for the North Carolina Public School  
13 Teachers' and Professional Educators' Investment Plan.

14           For local boards of trustees as employers choosing to participate in the  
15 North Carolina Public School Teachers' and Professional Educators'  
16 Investment Plan, the third-party administrator shall, at a minimum, provide  
17 the following:

- 18           a. Maintain a written plan document.  
19           b. Review hardship withdrawal requests, loan requests, and other  
20 disbursements permitted under section 403(b) of the Internal  
21 Revenue Code of 1986.  
22           c. Maintain specimen salary reduction agreements for the employer and  
23 employees of that employer to initiate payroll deferrals.  
24           d. Monitor maximum contributions.  
25           e. Coordinate responses to the Internal Revenue Service in any case of  
26 an IRS audit.  
27           f. Generate educational communication materials to employees  
28 concerning the enrollment process, program eligibility, and  
29 investment options.  
30           g. Maintain internal reports to ensure compliance with section 403(b) of  
31 the Internal Revenue Code and Title 26 of the Code of Federal  
32 Regulations.  
33           h. Provide compliance monitoring/oversight for all 403(b) plans  
34 established under G.S. 115D-25 within each participating local board  
35 of trustees plan by creating and establishing the necessary  
36 connections and processes with existing and future vendors.  
37           i. Keep an updated schedule of vendor fees and commissions as to the  
38 Department's statewide plan.

39       (2) Governance and oversight of the North Carolina Public School Teachers' and  
40 Professional Educators' Investment Plan will be performed by the  
41 Department of State Treasurer and the Board of Trustees for the North  
42 Carolina Supplemental Retirement Plans established pursuant to  
43 G.S. 135-96. Because of the administrative and record-keeping duties  
44 enumerated in subdivision (1) of this subsection, any existing vendor of a  
45 403(b) with a participating employer must either agree to share data with the  
46 State's 403(b) vendor under this provision (so as to permit oversight over  
47 contribution limits, loans, and hardship withdrawals) or be directed by the  
48 participating employer to cease accepting new contributions, loans, and  
49 hardship withdrawals.

50       (3) Investment options shall be solely determined by the Department of State  
51 Treasurer and Board of Trustees for the North Carolina Supplemental

- 1                   Retirement Plans consistent with section 403(b) of the Internal Revenue  
2                   Code of 1986, as amended.
- 3           (4)       Investment staff of the Department of State Treasurer may make  
4                   recommendations to the State Treasurer and Board of Trustees for the North  
5                   Carolina Supplemental Retirement Plans as to appropriate investment  
6                   options. The State Treasurer and Board of Trustees shall have sole  
7                   responsibility for the selection of the service provider for the North Carolina  
8                   Public School Teachers' and Professional Educators' Investment Plan.
- 9           (5)       All contributions made in accordance with the provisions of section 403(b)  
10                   of the Internal Revenue Code of 1986, as amended, and this section shall be  
11                   remitted directly to the administrator and held by the administrator in a  
12                   custodial account on behalf of each participating employee. Any investment  
13                   gains or losses shall be credited to those accounts. The forms of payment and  
14                   disbursement procedures shall be consistent with those generally offered by  
15                   similar annuity contracts, trust accounts, and custodial accounts and  
16                   applicable federal and State statutes governing those contracts and accounts.
- 17           (6)       Any local board of trustees may elect to make contributions to the  
18                   employee's account on behalf of the employee. The local board of trustees  
19                   shall take whatever action is necessary to implement this section.
- 20           (7)       The design and administration of annuity contracts, trust accounts, and  
21                   custodial accounts under this provision shall comply with all applicable  
22                   provisions of the Internal Revenue Code of 1986, as amended."

23       **SECTION 3.** This act becomes effective October 1, 2015.