



DRAFT – FOR DISCUSSION PURPOSES ONLY – SUBJECT TO BOARD REVISION

RESOLUTION OF THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES

WHEREAS, the North Carolina General Statutes (“N.C.G.S.”) established the Supplemental Retirement Income Plan of North Carolina (N.C.G.S. Chap. 135, Art. 5, the “NC 401(k) Plan”) and the North Carolina Public Employee Deferred Compensation Plan (N.C.G.S. §§ 143B-426.24 and 147-9.4, the “NC 457 Plan”) as defined contribution plans sponsored by the State of North Carolina in which state and local governmental employers in North Carolina participate;

WHEREAS, the North Carolina Public School Teachers’ and Professional Educators’ Investment Plan (N.C.G.S. §§ 115C-341.2 and 115D-25.4, the “NC 403(b) Program”) offers investment options and recordkeeping services, and an optional plan document, to North Carolina school districts and community colleges that sponsor defined contribution plans under Internal Revenue Code section 403(b);

WHEREAS, the mission of the NC 401(k) Plan, the NC 457 Plan, and the NC 403(b) Program (together, the “Supplemental Retirement Plans”) is to promote the retirement goals and retirement readiness of the current and former North Carolina public servants, and their beneficiaries, who comprise the plans’ participants;

WHEREAS, the North Carolina Supplemental Retirement Board of Trustees (the “Board”) administers the Supplemental Retirement Plans, in conjunction with the North Carolina Department of State Treasurer (the “Department”);

WHEREAS, the Board is a public entity that holds quarterly regular meetings and, as needed, special meetings, all of which are subject to North Carolina’s open meetings law (N.C.G.S. Chap. 143, Art. 33C, the “Open Meetings Law”);

WHEREAS, the Board and the Department receive no appropriation of state funds to administer the Supplemental Retirement Plans, instead relying on administrative fees established by the Board and the Department and charged to participants in the Supplemental Retirement Plans (the “Administrative Fees”);

WHEREAS, the Administrative Fees are charged as a percentage of the assets in participants’ accounts;

WHEREAS, the Board strives to administer the Supplemental Retirement Plans as efficiently and prudently as possible, which includes establishing the Administrative Fees and budget for the operation of the Supplemental Retirement Plans;

WHEREAS, pursuant to their statutory authority (N.C.G.S. § 135-91(c)), the Board and the Department codified the Administrative Fees in the North Carolina Administrative Code (20 NCAC 11 .0101 and .0102, the “Fee Rules”);



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WHEREAS, the current Administrative Fees and the efficient and prudent operation of the Supplemental Retirement Plans resulted in the accumulation of significant excess operating reserves as of 2018;

WHEREAS, in order to reduce such excess reserves and return funds to participants, the Board and the Department waived the Administrative Fees for the NC 401(k) Plan and the NC 457 Plan for 2019 and 2020, as permitted by the Fee Rules;

WHEREAS, the Administrative Fee waivers are expected to eliminate the excess reserves by the end of 2020; therefore, the Board and the Department are not extending the waiver for 2021;

WHEREAS, excess reserves are again expected to accumulate over time with the resumption of the Administrative Fees;

WHEREAS, the Board and the Department have determined that the efficient and prudent administration of the Supplemental Retirement Plans requires the flexibility to adjust the level of the Administrative Fees to match better the projected revenues and expenses of operating the Supplemental Retirement Plans;

WHEREAS, the Board and the Department desire clear statutory authority to establish and change the Administrative Fees apart from the North Carolina Administrative Procedures Act (N.C.G.S. Chap. 150B).

NOW, THEREFORE, be it

RESOLVED, that:

1. The Board respectfully requests that the North Carolina General Assembly amend N.C.G.S. § 135-91(c) and any other applicable North Carolina General Statutes to clarify the authority of the Board and the Department to establish and change the Administrative Fees according to a rulemaking procedure apart from the North Carolina Administrative Procedures Act; provided that such rulemaking procedure requires the following:
 - a. Administrative Fees, including changes to such fees, shall be adopted only at public meeting of the Board that is conducted in accordance with the Open Meetings Law;
 - b. The public shall receive notice of proposed Administrative Fees, including changes to such fees, at least 30 days prior to Board meetings at which such Administrative Fees are adopted.
2. The Board directs and authorizes Departmental staff to do the following:
 - a. Draft proposed amendments to the North Carolina General Statutes to accomplish the Board's request in Section 1 above; and



North Carolina
Total Retirement Plans



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STATE TREASURER OF NORTH CAROLINA
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- b. Provide such proposed amendments to the North Carolina General Assembly for consideration in the 2021 Session.

Approved by the Board, this 3rd day of December, 2020.

Dale R. Folwell, CPA, State Treasurer and Chair
North Carolina Supplemental Retirement Board of Trustees

Mary Buonfiglio, Secretary
North Carolina Supplemental Retirement Board of Trustees