



RICHARD H. MOORE
TREASURER

State of North Carolina

Department of State Treasurer

*State and Local Government Finance Division
and the Local Government Commission*

T. VANCE HOLLOMAN
DEPUTY TREASURER

Memorandum # 1103

June 13, 2008

TO: All Local Government Finance Officers and Independent Auditors

FROM: Sharon Edmundson, Director, Fiscal Management

SUBJECT: North Carolina Department of State Treasurer's Local Government Other Post Employment Benefits (OPEB) Fund

As permitted by G.S.147-69.2 and G.S. 147-69.4, the Department of State Treasurer (DST) has created the Local Government OPEB Fund to be used by local governments, public authorities and certain other entities in North Carolina that choose to fund all or part of their annually required contribution for other post-employment benefits provided to former employees or beneficiaries of former employees of the contributing unit. Participation in this fund is completely voluntary but all units should be aware of several facts as follows:

- Unless a unit has expanded investment authority given to it by legislation, it must abide by G.S. 159-30 in investing all funds, including those set aside for OPEB funding. Participation in the Treasurer's OPEB Fund is the only exception to that requirement unless the unit has specific expanded investment authority.
- The Treasurer's OPEB Fund will be invested in investments as permitted by G.S. 147-69.2.
- Once a unit sets funds aside in an irrevocable trust, whether through the Treasurer's OPEB Fund or through some other investment permitted by G.S. 159-30.1, it must implement GASB Statement 43. We encourage units that choose to fund to do so in the year they implement GASB Statement 45. In this way Statements 43 and 45 are implemented simultaneously.
- Funding is voluntary, whether through the Treasurer's OPEB Fund or other irrevocable trust but once funds are deposited they may only be used to fund OPEB benefits.

GASB 45 is being implemented in phases over a three year period with Phase I governments implementing as of June 30, 2008. Phase II will implement as of June 30, 2009, and Phase III as of June 30, 2010. Units are divided into the same groups as for implementation of GASB 34. Early implementation is permitted. Please see Memorandum # 1064 for more information on implementation.

In order to participate in the Treasurer's OPEB Fund, units also must open an account in the Short Term Investment Fund (STIF) with DST. Funds will move in and out of the Treasurer's OPEB Fund through the unit's STIF account. Funds can go into the STIF account at any time; in each month except June all funds deposited at least 5 business days prior to month end (or give notice of intent to deposit including date and amount) will move to the Treasurer's OPEB Fund on the first day of the month following deposit, along with interest earned on the STIF funds from the date of investment to the first of the following month. At that point, funds are invested in the irrevocable trust as required by GASB Statement 45. Funds deposited in June, at least 5 business days prior to month end (or give notice of intent to deposit including date and amount) will move from the individual STIF funds to an OPEB STIF Fund on June 30 in order to allow units to deposit their funds in the irrevocable trust by fiscal year end. As a result, on June 30 those funds would be considered to be in the irrevocable trust as required by GASB Statement 45.

Included with the memorandum are the contribution agreement, the application for participation in the STIF, and a sample resolution for local governments to use with their local board. Units must have their own boards adopt a resolution authorizing the finance officer or other designated staff to open the STIF account and participate in the Treasurer's OPEB Fund. Assuming a unit has no other OPEB investments, these agreements will be sufficient to establish the irrevocable trust requirement set by GASB in Statement No. 45.

Some important points to note in the contribution agreement:

- The minimum initial deposit is \$100,000. The minimum balance in the account is \$100,000 unless overall market valuation has caused it to drop below \$100,000.
- Subsequent deposits must be made in \$25,000 increments.
- Deposits may be made at any time but will only move to the OPEB Fund on the first of the month or on June 30, if the deposit, or notice of intent to deposit, is received at least 5 business days prior to month end. All deposits made by June 30 will be contributed to the OPEB Fund by that date, as long as the notice of intent to deposit is given, including date and amount, by June 23, or the actual deposit is made by that date.
- Each unit is permitted two withdrawals per year from the OPEB Fund after the first year, with provisions made for emergencies. Withdrawals must be made on the first of the month with a minimum of 5 business days notice.
- Each unit must certify that any funds withdrawn from the OPEB Fund will be used to provide other post employment benefits for its retirees or their beneficiaries.
- The OPEB Fund is an investment vehicle, not an OPEB plan. DST will not administer any benefits.
- Units will receive a quarterly statement reflecting their activity in the Fund.
- Units must notify DST of the intent to deposit at least 5 business days prior to the first of the month in order to move funds to the OPEB Fund on the first of the month. This intent can be made known either by actually depositing funds to the unit's STIF account or by notifying DST in writing of the amount of deposit and the expected date .

Units should review the documents with their local counsel. Please return all signed documents to Brad Bullock (919 508-5964) in the Financial Operations Division of the DST. The STIF account

Memorandum #1103

North Carolina Department of State Treasurer's Local Government OPEB Fund

June 13, 2008

Page 2

must be open before the unit can begin making deposits. If there are any questions or concerns please contact Sharon Edmundson at (919) 807-2381 or sharon.edmundson@nctreasurer.com.

**For Use by Local Governments, Public Authorities and Other Entities
Eligible to Participate in the Local Government Other Post-Employment Benefits Fund**

Contribution Agreement

Treasurer of the State of North Carolina

Section 1. General. The undersigned participant (“Participant”) understands and acknowledges that it may contribute funds from time to time to the Local Government Other Post-Employment Benefits Fund (the “OPEB Fund”) managed by the Department of State Treasurer (the “Treasurer”), to be held and invested in (i) public equity and derivative securities (“Public Equity”) as permitted from time to time by North Carolina General Statute (“NCGS”) § 147-69.2(b)(8), and/or (ii) certain obligations, asset-backed securities, repurchase agreements, time deposits and/or commercial paper (collectively “Fixed Income Obligations”) as permitted from time to time by NCGS §§ 147-69.2(b)(1) through (6).

Participant understands and acknowledges that investments in Public Equity may be effected through investments made by the Treasurer in individual, common, or collective trust funds of banks, trust companies, and group trust funds of investment advisory companies or through other investment vehicles or investment management arrangements as may be permitted by statute from time to time, as long as the investment manager has assets under management of at least \$100 million. The trustee of any such third party trust (“Third Party Trustee”) shall be appointed by the Treasurer and the investment manager of any such other investment vehicle or investment management arrangement shall be approved by the Treasurer (“Third Party Manager”). Participant further understands and acknowledges that investments may be effected by the Treasurer through third party custodial, underwriting and brokerage arrangements (“Third Party Custodians and Brokers”).

Section 2. Representations, Warranties and Related Covenants. As a condition to its investment, Participant acknowledges, represents, warrants and agrees that:

(i) Contributions to the OPEB Fund are irrevocable and that assets of the OPEB Fund may only be used to provide other post-employment benefits to individuals who are former employees, or beneficiaries of former employees of Participant and are entitled to other post-employment benefits payable by Participant within the meaning of NCGS § 147-69.4.

(ii) Investments in the OPEB Fund are subject to, among other things: general investment risks (including the risk of the loss of capital); investment manager risk (which includes the risk that poor security selection by the manager will cause the investment to underperform relevant benchmarks or other investments with similar objectives); interest rate risks; and credit risks (including, where applicable, custodial credit risks, which is the risk that in the event of the failure of the counterparty, the Treasurer will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party).

(iii) Participant has taken full cognizance of and understands all of the risk factors related to investments in the OPEB Fund.

(iv) Participant is able to bear the economic risk of investments in the OPEB Fund.

(v) Participant has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of investment in the OPEB Fund.

(vi) Participant acknowledges that the Treasurer is solely responsible for determining the allocation of investments in the OPEB Fund between Public Equity and Fixed Income Obligations, subject to the limitations

described herein, and that the Treasurer will allocate investments in the OPEB Fund in accordance with the investment guidelines attached hereto as Attachment A (the "Investment Guidelines"). Participant acknowledges and agrees that the Investment Guidelines for the OPEB Fund may be changed from time to time with the consent of the majority of the participants in the OPEB Fund (voting in accordance with the then most recent end-of-period account values).

(vii) Participant acknowledges that its investment in the OPEB Fund is suitable for Participant based upon its other securities holdings and financial situation and needs and that Participant has adequate means of providing for possible contingencies.

(viii) Participant understands that it is not permitted to sell, transfer or assign any of its interest in the OPEB Fund. In order to liquidate its investment, Participant will be required to follow the procedures described in Section 4 of this agreement, including certifying that the withdrawal is permitted under NCGS § 159-30(g). The risk of any decline in the value of an investment in the OPEB Fund during the interval between any permitted withdrawal date, as further described in Section 4 of this agreement, is borne by Participant.

Further, Participant acknowledges, represents, warrants and agrees that (i) it is a local government, public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit that may make contributions to the OPEB Fund under NCGS § 159-30(g) and § 147-69.4; (ii) is exempt from federal income tax under Section 115 of the Code and the Constitution of the United States as an instrumentality of the State of North Carolina; (iii) the investment by Participant described herein has been duly authorized by all necessary corporate action of Participant; and (iv) Participant has the requisite corporate power and authority to execute and deliver this document and to contribute the funds for investment as described herein; and (v) the Treasurer has the power and authority under NCGS § 147-69.2(b)(8) and applicable law to appoint a Third Party Trustee or Third Party Trustees to hold the funds contributed to the OPEB Fund for investments in Public Equity.

Participant will notify the Treasurer immediately if it has reason to believe that the foregoing acknowledgements, representations, warranties and agreements may cease to be true.

Section 3. Fees. Participant understands, acknowledges and agrees that customary fees will be charged against OPEB Fund's investment by Third Party Trustees, Third Party Managers and/or Third Party Custodians and Brokers. Participant also understands, acknowledges and agrees that the Treasurer will also charge fees to Participant against the portion of the OPEB Fund invested in Public Equity, as permitted by NCGS § 147-69.2(b4), equal to fifteen (15) basis points per year, which the Treasurer will use to defray its internal costs of administering the OPEB Fund. All third party and Treasurer fees shall be deducted from the OPEB Fund.

Section 4. Contributions and Withdrawals. In order to participate in an investment in the OPEB Fund, Participant is required to establish a Short Term Investment Fund ("Participant STIF") account with the Treasurer. Additional information regarding the establishment of a Participant STIF account can be found at <http://www.nctreasurer.com>. The Participant STIF account created by Participant will be used to move funds into and out of the investments in the OPEB Fund, as further described below.

(i) *Minimum Contributions.* The minimum initial contribution required to make an investment in the OPEB Fund is \$100,000. Subsequent contributions in investments in the OPEB Fund must be made in \$25,000 increments.

(ii) *Minimum Account Balance.* The minimum account balance that must be maintained in an investment in the OPEB Fund is \$100,000 in each account, unless overall market valuation has caused the balance in such account to drop below \$100,000.

(iii) *Procedures for Contributions and Withdrawals.* Participant must provide the Treasurer with at least five (5) business days notice of any contribution to or withdrawal from the OPEB Fund using the Contribution Form or Withdrawal Request Form attached hereto, as appropriate. **Contributions to and withdrawals from the OPEB Fund are permitted only on the first business day of each calendar month except that contributions**

will also be permitted on June 30 at each year. If a notice of contribution or withdrawal is received during the last five (5) business days of any calendar month, such contribution or withdrawal request will not be processed until the first business day of the calendar month after the next ensuing calendar month. **Participant may deposit proposed contributions in its Participant STIF account at any time during a month and such deposits (including accrued interest) accepted by the Treasurer for contribution to the OPEB Fund will be contributed to the OPEB Fund on the next processing date.**

(iv) *Other Limits on Withdrawals.* No withdrawals will be permitted during the first twelve (12) months after any investment in the OPEB Fund. After such time, Participant will be permitted to make no more than two (2) withdrawals from any investment in the OPEB Fund during any twelve (12) month period. Notwithstanding the foregoing, emergency withdrawals may be permitted, subject to the approval of a Deputy State Treasurer (determined in their sole discretion, on a case-by-case basis) and provided that Participant (i) reimburse the Treasurer for any expenses associated with such emergency withdrawal and (ii) pay any penalties charged by the Treasurer.

Section 5. RELIANCE BY THIRD PARTY TRUSTEES. PARTICIPANT EXPRESSLY AGREES THAT ALL OF THE ACKNOWLEDGEMENTS, REPRESENTATIONS, WARRANTIES AND AGREEMENTS MADE HEREIN MAY BE RELIED UPON BY ANY THIRD PARTY TRUSTEE APPOINTED BY THE TREASURER.

[Signature Page Follows]

The undersigned has caused this Application to be executed by its Authorized Representative as of the date written below.

Name of Participant (Type or Print)

By:

Name (Type or Print)

Signature

Title

Date

Authorized Representative

Name: _____

Title: _____

Address: _____

Tel: _____ Fax: _____

E-mail: _____

Primary Contact (for statements and communications, if different from Authorized Representative)

Name: _____

Title: _____

Address: _____

Tel: _____ Fax: _____

E-mail: _____

Initial Proposed Contribution to the OPEB Fund: \$ _____*

Acknowledged and Agreed

Treasurer, State of North Carolina

Date: _____

* Any accrued interest in the Participant STIF account with respect to the contribution will also be contributed to the OPEB Fund.

Sample Form of Resolutions for Local Governments, Public Authorities and Other Entities (“Participants”) Eligible to Participate in the Local Government Other Post-Employment Benefits Fund (“OPEB Fund”)

[This is only a sample, which may not be suitable for the use of particular Participants in the OPEB Fund. Please modify as applicable.]

WHEREAS, the Local Government Other Post-Employment Benefits Fund (the “OPEB Fund”) established pursuant to North Carolina General Statutes (“NCGS”) Section 147-69.4 consists of contributions made by local governments, public authorities and other entities authorized to make contributions to the OPEB Fund (“Participants”), which contributions are irrevocable;

WHEREAS, the assets of the OPEB Fund are not subject to the claims of creditors of any Participants and may only be withdrawn by a Participant to provide other post-employment benefits to individuals, who are former employees, or beneficiaries of former employees of the Participant, and who are entitled to other post-employment benefits payable by the Participant within the meaning of NCGS Section 147-69.4; and

WHEREAS, the **[Governing Body]** of **[Participant]** has determined that it is advisable and in the best interests of **[Participant]** to make contributions to the OPEB Fund, as provided in that certain Contribution Agreement between **[Participant]** and the Treasurer, the form of which has previously been made available to the **[Governing Body]** of **[Participant]** (the “Contribution Agreement”).

NOW, THEREFORE, BE IT RESOLVED, that the **[Governing Body]** hereby acknowledges and approves an initial contribution of \$_____ to the OPEB Fund (the “Contribution”) pursuant to the terms and conditions of the Contribution Agreement between **[Participant]** and the Treasurer in the form presented to the **[Governing Body]**;

FURTHER RESOLVED, that the appropriate officers, managers, and representatives of **[Participant]** (the “Authorized Representatives”) are hereby authorized and directed to execute and deliver the Contribution Agreement, to take any other actions deemed necessary or appropriate to consummate the transactions provided for therein, and to cause the Contribution to be made;

FURTHER RESOLVED, that all actions heretofore taken by any of the Authorized Representatives of **[Participant]** acting on behalf of **[Participant]** in furtherance of the foregoing resolutions are hereby ratified, adopted, approved and confirmed in all respects; and

FURTHER RESOLVED, that the Authorized Representatives of **[Participant]** acting on behalf of **[Participant]** are hereby authorized to take all such other actions as they may deem necessary or appropriate to give effect to the foregoing resolutions.

ATTACHMENT B

INVESTMENT GUIDELINES FOR OPEB FUND

The OPEB Fund may be invested in Public Equity and both short-term and long-term Fixed Income Obligations as provided in the Contribution Agreement with Participant.

The assets of the OPEB Fund will be invested within the following ranges:

	<u>Target</u>	Allocation Range	
		<u>Bottom</u>	<u>Top</u>
Long-term Fixed Income Obligations	15.0%	10.0%	30.0%
Short-term Fixed Income Obligations	15.0%	0.0%	30.0%
Total Fixed Income Obligations	30.0%	20.0%	40.0%
Public Equity	70.0%	60.0%	80.0%

Temporary imbalances may occur as a result of withdrawals, contributions and changes in asset values. Rebalancings will occur as soon as practicable. Investments may be held temporarily in short-term Fixed Income Obligations pending reinvestment in long-term Fixed Income Obligations and/or Public Equity.

Department of State Treasurer
Local Government Other Post-Employment Benefits Fund Application for Voluntary Short Term
Investment Fund (STIF) Account

Applying Entity: Statutory Authority, SL 2007-384 Name of Local Governmental Entity: _____										
Custodian (Applying Entity) Name: Title: Address: Tel: Fax: E-mail:	Primary Contact (For statements and advices) Name: Title: Address: Tel: Fax: E-mail:									
Security Administrator for CB\$ (Online Banking System) Name: _____ Tel: _____ E-mail: _____										
Name(s) of individual(s) to be executing signature card: Name (typed): _____ Title: _____ Name (typed): _____ Title: _____										
Certification by Custodian (Applying Entity): I certify that the information contained herein is correct. <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">_____</td> <td style="width: 50%; border: none;">_____</td> </tr> <tr> <td style="border: none;">Name (Type or Print)</td> <td style="border: none;">Signature</td> </tr> <tr> <td style="border: none;">_____</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Title</td> <td style="border: none;">Date</td> </tr> </table>			_____	_____	Name (Type or Print)	Signature	_____	_____	Title	Date
_____	_____									
Name (Type or Print)	Signature									
_____	_____									
Title	Date									
For use by the Department of State Treasurer: STIF Account Number: _____ (Assigned by Banking) Date: _____ Flexcube Customer ID Number: _____ (Setup on Flexcube) Date: _____										

North Carolina Department of State Treasurer
 Banking Operations Section
 325 North Salisbury Street
 Raleigh, NC 27603-1385

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