

## 06-24-2020 Town Council Meeting Responses to Council Questions

### **ITEM #4: Authorize the Town of Chapel Hill to Participate in the North Carolina Ancillary Governmental Participant Investment Program (AGPIP)**

#### **Council Question:**

Did the resolution creating OPEB trust require authorization by local legislation?

#### **Staff Response:**

*North Carolina General Statute 159-30.1 governs a local government's authority to establish and fund an OPEB trust. See language from statute below.*

#### **§ 159-30.1. Trust for other post-employment benefits.**

*(a) Trust. – A local government, a public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit may establish and fund an irrevocable trust for the purpose of paying post-employment benefits for which the entity is liable. The irrevocable trust must be established by resolution or ordinance of the entity's governing board. The resolution or ordinance must state the purposes for which the trust is created and the method of determining and selecting the Fund's trustees. The resolution or ordinance establishing the trust may be amended from time to time, but an amendment may not authorize the use of monies in the trust for a purpose not stated in the resolution or ordinance establishing the trust.*

*(b) Restrictions. – Monies in an irrevocable trust established under subsection (a) of this section may be appropriated only for the purposes for which the trust was established. Monies in the trust are not subject to the claims of creditors of the entity that established the trust. An entity that establishes a trust may not deposit money in the trust if the total amount held in trust would exceed the entity's actuarial liability, determined in accordance with the standards of the Governmental Accounting Standards Board, for the purposes for NC General Statutes - Chapter 159 27 which the trust was established. A trust established pursuant to subsection (a) of this section shall be referred to as a Local Government Other Post-Retirement Benefits Trust, and the assets of that trust may be invested as provided in G.S. 159-30(c) or deposited with the State Treasurer for investment pursuant to G.S. 147-69.2(b4). (2007-384, s. 5; 2010-175, s. 2.)*

*Based on this legislation the Town formally established an OPEB trust in [June 2016](#).<sup>1</sup> However, the Town had been setting aside funds for future healthcare costs since 2009 when*

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<sup>1</sup> [https://chapelhill.granicus.com/MetaViewer.php?view\\_id=7&clip\\_id=2805&meta\\_id=134051](https://chapelhill.granicus.com/MetaViewer.php?view_id=7&clip_id=2805&meta_id=134051)

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*governmental accounting standards changed to require local governments to report these costs as a future liability.*

### **Council Question:**

Does the Department of State Treasurer grant permission for towns to participate in AGPIP? If so, what criteria does the Department of State Treasurer use in allowing towns to participate in the AGPIP program?

### **Staff Response:**

*Based on language from the NC Department of State Treasurer on the [Ancillary Governmental Participant Investment Program Enrollment Form](#),<sup>2</sup> the criteria for participation is based on the following:*

- *NCDST is undertaking its statutory responsibility pursuant to applicable law, including N.C.G.S. §§147.69.2 and 147-69.3.*
- *For participants that are **Local Government Other Post-Employment Benefits Trust (“OPEB Trust”)** established pursuant to N.C.G.S. § 159-30.1 or Local Government Law Enforcement Officer Special Separation Allowance Trust (“LEOSSA Trust”) established pursuant to N.C.G.S. §§ 147-69.5 and 159-30.2, the participant has established an irrevocable trust by resolution or ordinance of the entity’s governing board. The resolution or ordinance states the purpose for which the OPEB Trust or LEOSSA Trust is created and the method for determining and selection the Trust’s trustees.*
- *The Participant must meet all eligibility requirements set forth in the North Carolina General Statutes and all required documents (see link above to Enrollment Form) must be signed by an authorized representative*

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<sup>2</sup><https://files.nc.gov/nctreasurer/documents/files/IMD/AGPIP/EnrollmentDocuments/agpipenrollmentformandtermsofparticipation.pdf>