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Senior Citizens

After studying and debating the issue for many years, the General Assembly enacted legislation providing additional property tax relief for low-income elderly or disabled homeowners. This chapter describes that legislation and other new laws affecting senior citizens; state and local aging agencies; long-term care for the elderly; and government programs, assistance, and services for senior citizens.

State and Local Aging Agencies

State Division of Aging

Division of Aging budget. The Current Operations and Capital Improvements Appropriations Act of 2001, S.L. 2001-424 (S 1005), appropriates \$29.5 million in state funding to the Department of Health and Human Services (DHHS) Division of Aging for fiscal year 2001–2002 and 2002–2003.

Division of Aging reorganization. Section 21.33 of S.L. 2001-424 requires the Division of Aging to consolidate its planning and information section with its budget and information section. Savings in nonstate funds realized from reduction in positions must be reallocated to direct services.

Area Agencies on Aging

Consolidation study. Section 21.32 of S.L. 2001-424 directs DHHS to conduct a cost-benefit analysis of possible cost savings and increased efficiencies that might result from reducing the number of area agencies on aging. DHHS must report the results of its study to the General Assembly by March 1, 2002. (There are currently seventeen area agencies on aging in North Carolina.)

State funding for area aging agencies. S.L. 2001-424 reduces state funding to area agencies on aging from \$900,000 to \$700,000 per year (allocated equally among the seventeen area aging agencies).

Long-Term Care

Continuum of Long-Term Care

Section 21.9 of S.L. 2001-424 requires DHHS to develop a system that provides a continuum of long-term care for elderly individuals, disabled persons, and their families. The system must include structures and means for screening, assessment, and care management across long-term care settings; a process for determining outcome measures for long-term care; an integrated data system; relationships with universities to provide policy analysis and program evaluation of long-term care reforms; and other specified components. If nonstate funds are available, DHHS, with the approval of the Office of State Budget and Management, must implement the initial phase of a comprehensive data system for long-term care and develop a long-term care services coordination and case management system to minimize administrative costs, improve access to services, and minimize obstacles to the delivery of long-term care services. DHHS must submit a progress report to the General Assembly by April 15, 2002.

Long-Term Care Planning Local Lead Agency

Section 22.1 of the Studies Act of 2001, S.L. 2001-491 (S 166), requires the DHHS Division of Aging to study whether counties should designate local lead agencies to organize local long-term care planning processes. DHHS must report its findings and recommendations to the North Carolina Study Commission on Aging before the 2003 legislative session.

Quality of Care in Long-Term Care Facilities

S.L. 2001-385 (H 1068) directs DHHS to study methods (other than imposing monetary penalties for deficiencies) for improving and rewarding the quality of care in adult care homes. DHHS must report the results of its study and make legislative recommendations to the General Assembly by March 1, 2002. S.L. 2001-385 also requires DHHS to (1) offer joint training, focusing on frequently cited deficiencies in care, to Division of Facility Services consultants, county department of social services adult home specialists, and adult care home providers; (2) offer similar training for survey team members and nursing home providers; (3) develop an adult care home quality improvement consultation program; (4) establish a skilled nursing facility improvement consultation project; (5) explore alternatives to existing oversight and survey practices that will ensure quality in adult care homes and nursing homes; and (6) study alternative ways of reimbursing adult care homes for the costs of residents residing in special care units. DHHS must report the results of this study to the General Assembly by March 1, 2002.

Section 21.36 of S.L. 2001-424 requires DHHS and the North Carolina Institute of Medicine to continue a special work group to develop and implement criterion-based indicators for monitoring the quality of care in long-term care facilities and programs.

S.L. 2001-482 (S 178) requires DHHS to develop an assessment instrument that will enable adult care home residents and their families to determine the extent to which adult care homes provide quality care. DHHS must report on the development of the assessment instrument to the North Carolina Study Commission on Aging by April 1, 2002, and recommend whether the assessment of adult care homes should be conducted by a state agency or by local governments.

Long-Term Care Staffing

Effective October 1, 2001, S.L. 2001-85 (H 736) requires all licensed adult care and nursing homes to post information that will allow residents, patients, and their families to determine on a daily basis the number of direct care staff and supervisors required to be on duty during each shift.

Long-Term Care Aide Workforce

Section 10.5 of the Studies Act of 2001 (S.L. 2001-491) authorizes the Joint Legislative Health Care Oversight Committee to study workforce issues pertaining to the long-term care aide workforce.

Long-Term Care Criminal Records Checks

S.L. 2001-465 (S 826) (1) suspends until January 1, 2003, the requirements of G.S. 131E-265(a1) and 131D-40 regarding national criminal history checks for employees of adult care homes and contract agencies of adult care homes, nursing homes, and home health agencies; (2) suspends until January 1, 2003, the requirements of G.S. 131E-265(a) regarding national criminal history checks for employees of nursing homes and home health agencies, except for those employees who provide direct care to patients; (3) requires that national criminal history checks under G.S. 131E-265(e) be conducted in accordance with Public Law 105-277; and (4) authorizes the Legislative Research Commission to study how federal law affects the distribution of national criminal history record check information requested for nursing homes, adult care homes, and other agencies and the problems federal restrictions pose for effective and efficient implementation of state-required criminal records checks.

Adult Care Home Rates

Section 21.7 of S.L. 2001-424 directs DHHS to implement four recommendations contained in the State Auditor's performance audit report regarding adult care home reimbursement rates. This section further authorizes the legislature's Fiscal Research Division to contract with an independent consultant to develop a new rate methodology for payments to adult care homes and directs that the consultant's report be submitted to the General Assembly by June 1, 2002. DHHS may not implement an alternative payment procedure for adult care homes without the General Assembly's approval.

Adult Care Home Special Care Units

S.L. 2001-157 (H 958) requires adult care homes that receive State-County Special Assistance or Medicaid payments and have special care units for residents with dementia to submit to DHHS cost reports that identify the costs of their special care units and do not average special care costs with other adult care home costs. S.L. 2001-157 also requires DHHS to develop, based on the data in these cost reports, a designated reimbursement system for residents of special care units, but it prohibits DHHS from implementing this system until it has been reviewed by the General Assembly. DHHS must report its proposed system to the General Assembly by May 1, 2002.

Certificate of Need for Adult Care Homes

S.L. 2001-234 (S 937) (1) extends until December 31, 2001, with some modifications, the moratorium on state approval of additional adult care beds first enacted in 1997; (2) amends G.S. 131E-175 and 131E-176 to require that, effective January 1, 2002, the construction of adult care homes and additional adult care home beds be regulated under North Carolina's certificate of need law; and (3) requires DHHS to make recommendations to the State Health Care Coordinating Council by May 1, 2002, regarding a state medical facilities planning methodology that identifies the persons served by adult care homes and the needs of those persons.

Community-Based Services Provided Through Adult Care Homes

Section 21.54 of S.L. 2001-424 requires DHHS to develop a model project for delivering community-based mental health, developmental disabilities, and substance abuse services through adult care homes that have excess capacity.

Liability Insurance for Long-Term Care Facilities

Section 2.1C of the Studies Act of 2001 (S.L. 2001-491) authorizes the Legislative Research Commission to study issues regarding the availability of liability insurance for long-term care facilities, hospitals, and doctors.

Retirement Facilities' Property Tax Exemption

S.L. 2001-17 (H 193) amends G.S. 105-278.6A to provide a property tax exemption for certain qualified retirement facilities that provide charity care or community benefits. S.L. 2001-17 is discussed in more detail in Chapter 17, "Local Taxes and Tax Collection."

Other Programs, Assistance, and Services for Senior Citizens

Property Tax Exemption for Elderly Homeowners

G.S. 105-277.1 provides financial assistance to low-income elderly or disabled homeowners by exempting part of the value of their homes from the property tax levied by North Carolina counties and municipalities. Under current law, an elderly or disabled homeowner is eligible for the exemption (the first \$20,000 of appraised value of property used as his or her permanent residence) if he or she is a North Carolina resident and his or her income for the preceding calendar year was \$15,000 or less. Under current law, the cost of property tax relief for low-income elderly or disabled homeowners (approximately \$27 million) is divided between local governments (approximately \$19.1 million in lost tax revenues) and the state (\$7.9 million in reimbursements provided to local governments pursuant to G.S. 105-277.1A).

Effective July 1, 2002, S.L. 2001-308 (H 42) amends G.S. 105-277.1 by increasing the income eligibility limit from \$15,000 to \$18,000. Effective July 1, 2003, the income eligibility limit will be adjusted to the nearest \$100 based on annual cost-of-living adjustments used in calculating Social Security and Supplement Security Income benefits. S.L. 2001-308 also changes the amount of the exemption from \$20,000 to \$20,000 or 50 percent of the appraised value of the residence, whichever is greater, and extends the deadline for requesting the exemption from April 15 to June 1 preceding the tax year for which the exemption is claimed. Local governments will bear the entire cost of expanding property tax relief for low-income elderly or disabled homeowners (approximately \$11.8 million in fiscal year 2002–2003).

Effective July 1, 2003, Section 34.15(a)(5) of S.L. 2001-424 repeals G.S. 105-277.1A, which currently requires the state to reimburse local governments for a portion of the property tax revenues (approximately \$7.9 million) they lose due to property tax relief for low-income elderly or disabled homeowners pursuant to G.S. 105-277.1. This, combined with the enactment of S.L. 2001-308, means that local governments will be required to bear the entire cost of providing property tax relief to low-income elderly or disabled homeowners (approximately \$38.8 million in fiscal year 2002–2003).

State-County Special Assistance

State-County Special Assistance payments. Section 21.44 of S.L. 2001-424 increases the maximum State-County Special Assistance payment for elderly or disabled residents of adult care

homes to \$1,091 per month effective October 1, 2001, and to \$1,120 per month effective October 1, 2002.

Special Assistance demonstration project. S.L. 1999-237 established a demonstration project under which Special Assistance payments could be made to up to 400 eligible individuals in in-home living arrangements. Section 21.29 of S.L. 2001-424 allows payments under this demonstration project to be continued through June 30, 2003, in the case of persons who are enrolled in the project as of June 30, 2002, and remain continuously eligible. Payments under the demonstration project may not exceed 50 percent of the payment an individual would receive if he or she resided in an adult care home. Section 21.29 also directs DHHS to apply for a federal waiver extending Medicaid eligibility to persons receiving Special Assistance under the demonstration project. If the waiver is granted, DHHS may not implement the waiver without the General Assembly's approval.

Senior Citizens Centers

Section 21.30 of S.L. 2001-424 provides that state funding for new senior citizens centers may not be provided unless the board of county commissioners in the county in which the new center will be located formally endorses the need for the center, designates a sponsoring agency for the center, and makes a formal commitment to use local funds to support the center's ongoing operations.

Adult Day Care

Adult day care funding. Section 21.47 of S.L. 2001-424 requires the Division of Aging to change the methodology it uses to allocate funding for adult day care to ensure that funds are distributed equitably among service providers and used to serve new clients, not for unused slots.

Adult day care transportation. Effective October 1, 2001, S.L. 2001-90 (H 329) amends G.S. 131D-6(b) to provide that adult day care programs are not required to provide transportation to participants. Programs that choose to provide transportation must comply with rules adopted by the Social Services Commission regarding the health and safety of participants during transport.

Adult day care rates. Legislation (S 167 and H 162) authorizing counties (rather than state agencies) to establish rates for reimbursement for adult day care under the Home and Community Care Block Grant was introduced and passed the Senate and House during 2001. Neither bill was enacted, but both remain eligible for consideration during the 2002 legislative session.

Prescription Drug Assistance

Section 21.88 of S.L. 2001-424 continues the state's prescription drug assistance program and provides \$500,000 per year in state funding for the program. Persons who are age sixty-five or older, have incomes that do not exceed 150 percent of the federal poverty guideline, and suffer from cardiovascular disease or diabetes are eligible for the program.

Section 21.100 of S.L. 2001-424 directs North Carolina's Health and Wellness Trust Fund Commission to develop grant criteria that will enable programs to receive funding to expand elderly or disabled persons' access to prescription drugs.

Section 10.3 of the Studies Act of 2001 (S.L. 2001-491) authorizes the Joint Legislative Health Care Oversight Committee to study ways in which the state might make prescription drug coverage more accessible and affordable for senior citizens.

Public Transportation for the Elderly and Disabled

S.L. 2001-424 appropriates \$1.4 million per year in recurring state funding to the state Department of Transportation for public transportation for the elderly and disabled (a \$500,000 per year increase in funding).

Other Legislation of Interest to Senior Citizens

State and Local Government Retirement

Cost-of-living increase for state and local government retirees. Section 32.22 of S.L. 2001-424 provides a 2 percent cost-of-living increase for most retired state and local government employees covered by the Teachers' and State Employees' Retirement System (TSERS), the Consolidated Judicial Retirement System, the Legislative Retirement System, and the Local Government Employees' Retirement System (LGERS).

Increased local government retirement benefits. Section 32.23 of S.L. 2001-424 increases the retirement benefits of local government employees who are covered by LGERS and who retire on or after July 1, 2001, by increasing the multiplier for full retirement benefits from 1.78 percent to 1.81 percent of average final compensation.

Optional retirement program for the North Carolina Community College system. Effective January 1, 2002, Section 32.24 of S.L. 2001-424 enacts a new statute, G.S. 135-5.4, establishing an optional retirement program for community college employees.

Optional Retirement Program Study Commission. Section 32.24A of S.L. 2001-424 establishes an Optional Retirement Program Study Commission and directs the new commission to examine the feasibility and desirability of extending eligibility under the UNC optional retirement program to include all university employees who are exempt from the State Personnel Act. It also directs the commission to study the feasibility and desirability of establishing an optional retirement program for community college employees. The commission must report the findings of its study to the 2002 General Assembly.

Early retirement for state employees and law enforcement officers. Section 2.1 of the Studies Act of 2001 (S.L. 2001-491) authorizes the Legislative Research Commission to study early retirement for state employees and law enforcement officers.

State contributions to Teachers' and State Employees' Retirement System. In 2001 Governor Easley withheld approximately \$151 million in state contributions to the Teachers' and State Employees' Retirement System (TSERS) in an effort to close a projected \$850 million shortfall in the state's 2000-01 budget. Section 21 of S.L. 2001-513 (H 231) states the legislature's intent to make the state's TSERS contribution for the period between February 28 and June 30, 2001. It is the General Assembly's intent that the payment, including interest, will be made over a five-year period beginning July 1, 2003.

Retired teachers. Before July 1, 2001, G.S. 135-3(8)c provided that a state government retiree's TSERS retirement benefits would not be suspended because of his or her post-retirement earnings as a public school teacher if he or she had been retired and not employed in any capacity (other than as a substitute teacher in a public school) for at least twelve months before returning to work as a teacher. Effective July 1, 2001, through June 30, 2003, Section 32.25 of S.L. 2001-424 amends G.S. 135-3(8)c and 115C-325(a)(5a) to allow a retired teacher to continue receiving his or her full retirement benefits if he or she has been retired and not employed in any capacity (other than as a substitute teacher or part-time tutor in a public school) for at least six months.

PREPARE program. The Office of State Personnel's PREPARE program provided pre-retirement planning assistance to state employees aged fifty or older (or state employees of any age with twenty years of service) and encouraged networking between retired state employees and agencies. Section 13.1 of S.L. 2001-424 abolishes the PREPARE program, but encourages the State Treasurer's office to include the PREPARE model in its delivery of retirement services for state employees and retirees.

Repurchase of withdrawn TSERS service. Section 32.32 of S.L. 2001-424 increases the opportunities for state employees and retirees to repurchase withdrawn years of service under TSERS.

LGERS discontinued service retirement allowance. S.L. 2001-435 (H 943) enacts a new section, G.S. 128-27(a2), authorizing a discontinued service retirement allowance for certain local government employees whose employment is involuntarily terminated due to reduction in force, merger, or other specified circumstances.

Retirement benefits for nonimmigrant aliens. Effective August 1, 2001, S.L. 2001-426 (H 1324) amends the definitions of *employee* and *teacher* in G.S. 128-21 and 135-1 to include nonimmigrant aliens who are otherwise eligible to participate in LGERS or TSERS.

Medicare Supplement and Long-Term Care Insurance

Part X of S.L. 2001-334 (H 360) repeals the sunset provision in G.S. 58-54-45 and amends that section to require insurers to offer Medicare supplement plans A, C, and J to disabled Medicare beneficiaries under the age of sixty-five. Insurers are also required to offer a guaranteed right of enrollment in plans A or C to those beneficiaries whose coverage under a managed care plan has been terminated due to cancellation, nonrenewal, or disenrollment within the past sixty-three days. Part XI of S.L. 2001-334 authorizes the Commissioner of Insurance to adopt temporary rules for Medicare supplement and long-term care insurance when necessary to comply with federal laws and regulations or changes in those laws and regulations.

Administration of Trusts

S.L. 2001-413 (H 1070) rewrites the provisions of Chapter 36A, Article 3, of the General Statutes regarding the resignation, removal, and renunciation of trustees and appointment of successor trustees and enacts a new statute, G.S. 28A-22-10, governing the distribution of assets of an inoperative trust.

Managed Care Patients' Bill of Rights

S.L. 2001-446 (S 199), which enacts a Patient's Bill of Rights for patients covered by managed care plans, is discussed in Chapter 11, "Health."

Advance Health Care Directives Registry

S.L. 2001-455 (H 1362) enacts a new section, G.S. 130A-465, requiring DHHS to establish a central registry for health care powers of attorney, declarations of desire for natural death (living wills), and other advance health care directives. S.L. 2001-455 is discussed in more detail in Chapter 11, "Health."

Portable Do Not Resuscitate Orders

Effective December 1, 2001, S.L. 2001-445 (S 703) enacts a new statute, G.S. 90-21.16, authorizing portable do not resuscitate (DNR) orders that recognize an individual's right to refuse cardiopulmonary resuscitation to avoid loss of dignity and unnecessary pain and suffering.

Guardianship

Legislation to study North Carolina's guardianship statutes (S 179, S 766, and H 246) was introduced, but not enacted, during the 2001 legislative session.

Grandparents As Supervising Drivers

S.L. 2001-194 (H 78) allows a grandparent—as well as a parent or guardian—of an individual who holds a limited learner's permit or driver's license to act as a "supervising driver" under G.S. 20-11.

John L. Saxon

