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## Public Personnel

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The 2002 General Assembly enacted few significant changes to North Carolina law affecting state and local government employees. Because of the continuing budget shortfall, state employees did not receive salary increases, although the General Assembly did authorize a one-time bonus of an additional ten days of paid annual leave for full-time, permanent state employees. Most of the legislation affecting state and local government employees involved the individual government retirement systems. The most significant provisions of the new legislation were a 1.4 percent cost-of-living increase in the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS); an increase in the multiplier by which benefits are calculated in both TSERS and LGERS; a restriction on the post-retirement earnings of TSERS and LGERS members re-employed by government units; and the opportunity for local government employees to repurchase withdrawn service credit.

### **State Employees**

#### **Salary**

The General Assembly did not authorize any across-the-board salary increases for state employees this year. S.L. 2002-12 (S 1111) provides explicitly that state employees subject to G.S. 7A-102(c) (employees of the offices of the clerk of superior court), G.S.7A-171.1 (magistrates), or G.S. 20-187.3 (members of the State Highway Patrol) shall not move up on salary schedules or receive any automatic step increases until specifically authorized by the General Assembly.

Instead, state employees who were full-time permanent employees as of September 30, 2002, and who are eligible for annual leave will receive a one-time additional ten days of paid annual leave (Special Annual Leave Bonus) pursuant to the 2002 appropriations act [S.L. 2002-126 (S 1115)]. The Special Annual Leave Bonus will be accounted for separately from other annual leave and will remain available until it is used. Rules that limit the amount of annual leave that may be carried over from year to year will not apply to the Special Annual Leave Bonus.

## Legislation Affecting All State Employee Retirement Systems

The 2002 appropriations act provides for cost-of-living increases of 1.4 percent in the retirement allowance paid to or on behalf of retirees participating in the Teachers' and State Employees' Retirement System (TSERS), the Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System (LRS) by amending G.S. 135-5, 135-65, and 120-4.22A, respectively.

At the same time, the 2002 appropriations act amends S.L. 2001-424 (the 2001 appropriations act) to reduce the employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2002–2003 fiscal year for employees enrolled in TSERS, the State Law Enforcement Officers' Retirement System, the University Employees' Optional Retirement System, the Community College Optional Retirement Program, CJRS, and LRS. The reduction in employer contribution rates does *not* affect the amount of the monthly pension benefit that those enrolled in the retirement systems are entitled to receive.

S.L. 2002-71 (S 1429) amends G.S. 120-4.16, 120-4.31, 128-26, 128-38.2, 135-4, 135-18.7, 135-56.3, and 135-74 in order to make certain provisions in TSERS, LGERS, CJRS, and LRS conform to provisions of the Internal Revenue Code. With respect to each of the aforementioned retirement systems, the changes (1) limit to \$200,000 the amount of annual compensation taken into account for determining benefits accrued for plan years beginning with 2002, and (2) allow for the purchase of service credits in the respective retirement systems using rollover contributions from 403(b) or 457 retirement plans or through plan-to-plan transfers.

## Teachers' and State Employees' Retirement System

The 2002 appropriations act adds new subsection (b19) to G.S. 135-5, increasing the benefits multiplier from 1.81 percent to 1.82 percent for those members of TSERS retiring on or after July 1, 2002. It also adds to G.S. 135-5 new subsection (kkk), which brings the retirement allowance of members who retired prior to July 1, 2002, into line with the new multiplier by increasing by 0.6 percent the allowance payable on June 1, 2002.

The 2002 appropriations act makes a significant change in the restrictions on the re-employment of TSERS retirees by employers participating in TSERS. Previously, retirees working for TSERS employers on a part-time, temporary, interim, or fee-for-service basis were limited *in any calendar year* to 50 percent of the retiree's reported compensation in the twelve months preceding retirement. For employees retiring in the middle of the calendar year, this meant that they could work in the very positions from which they had just retired, on a full-time basis and at an equivalent salary, for a period of up to one year, while drawing their retirement allowance at the same time. The 2002 appropriations act amends G.S. 135-3(8)c. to provide that TSERS retirees working for TSERS employers on a part-time, temporary, interim, or fee-for-service basis shall be limited to earning 50 percent of reported compensation in the twelve months preceding retirement in any calendar year or *during the twelve-month period immediately following the effective date of retirement*. As a practical matter, this means that retirees returning to work in the positions from which they have just retired will be limited to a six-month period of temporary, full-time employment.

## Special Separation Allowance for Law Enforcement

The 2002 appropriations act amends G.S. 143-166.41(c), which previously prohibited retired law enforcement officers from being re-employed by any state department, agency, or institution while receiving a special separation allowance from the state. The amended version of the statute allows retired state law enforcement officers to continue receiving their special separation allowance if their new state employment is in a position exempt from the State Personnel Act and is with an agency other than the agency from which the officer retired.

### **Additional Family and Medical Leave**

The 2002 appropriations act grants state employees the right to take up to fifty-two weeks of unpaid leave during a five-year period to care for the employee's child, spouse, or parent who has a serious health condition. This fifty-two-week entitlement to family and medical leave is in addition to the twelve weeks of unpaid leave to which state employees are entitled each year pursuant to the federal Family and Medical Leave Act of 1993.

### **Employees Reinstated after Reduction-in-Force**

S.L. 2002-159 (S 1217) allows employees whose positions were eliminated as part of a reduction-in-force pursuant to Executive Order No. 22 but were ultimately funded in the 2002 appropriations act to regain their career state employee status pursuant to G.S. 126-1.1. S.L. 2002-159 also allows such employees to receive the Special Annual Leave Bonus authorized for state employees by the 2002 appropriations act.

### **Public Employee Special Pay Plan**

The 2002 appropriations act amends Article 9 of Chapter 143B of the General Statutes by creating a new Part 29 and Section 143B-426.41, which directs the Governor to establish a Board of Trustees within the Department of Administration for the creation and administration of a Special Pay Plan for state employees. As defined in the statute, a Special Pay Plan is a qualified retirement plan under Section 401(a) of the Internal Revenue Code (IRC) that removes from the IRC definition of "compensation" special compensation (such as payment for unused annual leave) paid to the plan on behalf of state employees. The act also amends G.S. 135-1(7a), which defines "compensation" for the purposes of the Teachers' and State Employees' Retirement System to include "all special pay contribution of annual leave made to a 401(a) Special Pay Plan for the benefit of an employee."

## **State Employee Study Commissions**

### **Human Resource and Retirement Systems Information Technology Study**

The 2002 appropriations act authorizes the Legislative Research Commission to study both the current and potential role of information technology in the state's human resource systems and to review how an enterprise approach would improve the effectiveness and efficiency of the state's human resource management system and its administration of employee and retirement benefits. The commission is to report its findings, together with any recommended legislation, to the 2003 session of the General Assembly.

### **State Personnel System Statutes Study**

S.L. 2002-180 (S 98), the Studies Act of 2002, authorizes the Legislative Research Commission to study those provisions of Chapter 126 of the General Statutes relating to benefits enhancements, career status, exemption, compensation, demonstration projects, and employee relations and to recommend legislation that would simplify the law and allow the State Personnel Commission to adopt policy and rules more efficiently. The commission is to report its findings, together with any recommended legislation, to the 2003 session of the General Assembly.

## **Legislative Study Commission on the Teachers' and State Employees' Retirement System**

The Studies Act of 2002 establishes a seven-member Legislative Study Commission on the Teachers' and State Employees' Retirement System to study TSERS and to consider, in particular,

- establishing early retirement for state employees,
- the differential in the accrual of vacation benefits between employees working an eight-hour day and those working a twelve-hour day, and
- any other issues relating to the solvency, benefits, or financial health of the retirement system.

The commission is to report its findings, together with any recommended legislation, on or before the convening of the 2003 session of the General Assembly.

## **State and Local Government Employees**

### **Discrimination Based on Disability**

S.L. 2002-163 (S 866) made changes to Chapter 168A of the General Statutes, the North Carolina Persons with Disabilities Protection Act. With respect to employment, this bill amends the definition of "reasonable accommodations" in G.S. 168A-3(10)a.6. by removing the cap on the cost of physical changes to the workplace that an employer must consider making. The bill also adds to G.S. 168A-3 new subsection (11) defining "undue hardship" as "a significant difficulty or expense" and setting forth factors to be considered in determining whether a proposed accommodation would impose an undue hardship on the employer. These changes bring the "reasonable accommodations" and "undue hardship" provisions of the North Carolina Persons with Disabilities Protection Act in line with those of the federal Americans with Disabilities Act.

## **Local Government Retirement**

### **Local Government Employees' Retirement System (LGERS)**

The 2002 appropriations act amends G.S. 128-27 to provide for cost-of-living increases of 1.4 percent in the retirement allowance paid to or on behalf of retirees participating in LGERS. The act adds new subsection (b20) to G.S. 128-27, increasing the benefits multiplier from 1.81 percent to 1.82 percent for those members of LGERS retiring on or after July 1, 2002. It also adds to G.S. 128-27 new subsection (ccc), which brings the retirement allowance of members who retired prior to July 1, 2002, into line with the new multiplier by increasing by 0.6 percent the allowance payable on June 1, 2002.

The 2002 appropriations act makes a significant change in the restrictions on the re-employment of LGERS retirees by employers participating in LGERS. Previously, retirees working for LGERS employers on a part-time, temporary, interim, or fee-for-service basis were limited *in any calendar year* to 50 percent of the retiree's reported compensation in the twelve months preceding retirement. For employees retiring in the middle of the calendar year, this meant that they could work in the very positions from which they had just retired, on a full-time basis and at an equivalent salary, for a period of up to one year, while drawing their retirement allowance at the same time. The 2002 appropriations act amends G.S. 128-24(5)c. to provide that LGERS retirees working for LGERS employers on a part-time, temporary, interim, or fee-for-service basis shall be limited to earning 50 percent of reported compensation in the twelve months preceding retirement in any calendar year or *during the twelve-month period immediately following the effective date of retirement*. As a practical matter, this means that retirees returning to work in the positions from which they have just retired will be limited to a six-month period of temporary, full-time employment.

S.L. 2002-153 (S 1238) amends G.S. 128-26(i) to allow LGERS participants to purchase withdrawn service credit under more favorable terms than previously allowed. This bill reduces from ten to five the number of years of prior and current service necessary to effect a repurchase and provides for repayment of the contributions previously withdrawn in a lump sum with interest compounded annually at a rate of 6.5 percent for each calendar year from the year of withdrawal to the year of repayment. Participants will also have to pay a service fee to cover LGERS's administrative expenses in processing the repurchase.

### **Public School Employees**

The General Assembly's 2002 legislation affecting public school employees is discussed in Chapter 8, "Elementary and Secondary Education."

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