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## Public Personnel

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The 2003 session of the General Assembly saw 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 \$550 and, for the second year in a row, a grant of an additional ten days of paid annual leave for permanent state employees. The General Assembly also passed legislation that clarifies the availability of workers' compensation and other forms of medical and salary continuation coverage for state and local government employees injured as a result of smallpox vaccination authorized by the federal Homeland Security Act.

### **Legislation Affecting Both State and Local Government Employees**

#### **Amendment to Workers' Compensation Act to Cover Injuries from Smallpox Vaccination**

S.L. 2003-169 (H 273) amends the N.C. Workers' Compensation Act at G.S. 97-53 to recognize both infection with smallpox or vaccinia (the virus in the smallpox vaccine) and any adverse medical reaction from smallpox vaccination as occupational diseases covered by workers' compensation. The infection or adverse reaction must be the result of a vaccination administered under the national smallpox vaccination program pursuant to Section 304 of the federal Homeland Security Act [*see* 42 U.S.C. § 233(p)] or the result of a nonvaccinated employee's exposure to another employee who has been vaccinated in accordance with the program.

#### **Vaccination Program for First Responders**

S.L. 2003-227 (H 916) requires the Department of Health and Human Services and local health departments to offer a voluntary vaccination program (including, but not limited to, vaccination against hepatitis A, hepatitis B, diphtheria, tetanus, influenza, and pneumococci) for first responders who may be exposed to infectious diseases at the site of a bioterrorist attack, terrorist incident, catastrophic or natural disaster, or other emergency.

## **State Employees**

### **Salary**

The General Assembly did not authorize any across-the-board salary increases for state employees this year. Instead, S.L. 2003-284 (H 397), the 2003 appropriations act, provides that state employees who are permanent employees as of October 1, 2003, will receive a one-time compensation bonus of \$550. In addition, state employees who are permanent employees as of July 1, 2003, and who are eligible for annual leave will receive an additional one-time grant of ten days of paid annual leave (Special Annual Leave Bonus). 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. Excluded from eligibility for the Special Annual Leave are executive branch department heads, judicial branch officials whose salaries are itemized in Section 30.4 of the 2003 appropriations act, state employees who are on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule, assistant and deputy clerks of superior court and magistrates of superior court receiving statutory step increases for the 2003–2004 fiscal year, and members of the State Highway Patrol receiving automatic increases under G.S. 20-187.3.

### **Legislation Affecting All State Employee Retirement Systems**

The 2003 appropriations act provides for cost-of-living increases of 1.28 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. The appropriations act also provides for transfer of accumulated contributions and creditable service among TSERS, CJRS, LRS, and LGERS for members meeting certain qualifying conditions.

### **Teachers' and State Employees' Retirement System (TSERS)**

S.L. 2003-359 (H 331) amends G.S. 135-1(7a) to define the meaning of the term *compensation* for the purposes of Chapter 135. The act defines compensation to include performance-based compensation; conversion of additional benefits such as health, life, or disability plans to salary; adjustments or increases in salary to compensate for an employee's increased tax liability for benefits provided by the employer; payout of vacation leave; and employee contributions to deferred compensation plans. The act explicitly excludes a number of payments and benefits from the definition of compensation, including, but not limited to, salary supplements paid for the purpose of allowing employees to purchase additional benefits; travel allowances; reimbursement of business, moving, and personal expenses; and payouts for unused sick leave.

### **State Disability Income Plan**

The 2003 appropriations act amends G.S. 135-101(6), 135-105(a), and 135-106(a) to provide that state employees only become eligible for benefits under the Disability Income Plan of North Carolina when they are unable to perform the duties of their own jobs or of any other available jobs with the state. Previously, there was no requirement that participating employees take any available job with the state and employees became eligible for benefits under the plan when they were no longer able to perform their usual occupations. This new requirement applies only to participants who had not yet vested in the Disability Income Plan as of July 1, 2003.

### **Expansion of Voluntary Shared Leave Plan**

S.L. 2003-9 (H 432) amends G.S. 126-8.3, 115C-12.2, and 115D-25.3 to provide that employees of state agencies, community colleges, and public schools may voluntarily share leave with immediate family members who are themselves employed by either state agencies, community colleges, or public schools. This legislation is discussed in more detail in Chapter 8, “Elementary and Secondary Education.”

### **Injuries from Smallpox Vaccination Covered under State Health Plan**

S.L. 2003-169 (H 273) amends G.S. 135-40.6(8) to include treatment of infection with smallpox or vaccinia (the virus in the smallpox vaccine) and any adverse medical reaction from vaccination against smallpox as a covered charge under the Teachers’ and State Employees’ Comprehensive Major Medical Plan (the State Health Plan).

### **Absences Due to Smallpox Vaccination Not to Count against Sick Leave**

S.L. 2003-169 amends Article 3 of G.S. Chapter 126 by adding new section 126-8.4, which provides that employees who suffer adverse medical reactions from smallpox vaccination administered pursuant to Section 304 of the federal Homeland Security Act (Section 304) shall be entitled to an additional 480 hours of paid sick leave to recover from the adverse reaction. In addition, state employees who reside in the same home as a person who has been vaccinated against smallpox pursuant to Section 304 and who suffer an adverse medical reaction due to exposure to the vaccinated person, or who need to care for the vaccinated person while he or she is suffering from an adverse reaction, shall also be granted an additional 480 hours of paid sick leave.

## **Local Government Employees**

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

S.L. 2003-319 (H 1170) amends G.S. 128-27 to provide for cost-of-living increases of 1.5 percent paid to or on behalf of retirees participating in LGERS. This act also adds to G.S. 128-27

- new subsection (b21), which increases the benefits multiplier from 1.82 percent to 1.85 percent for those members of LGERS retiring on or after July 1, 2003;
- new subsection (ddd), which brings the retirement allowance of members who retired prior to July 1, 2003, into line with the new multiplier by increasing by 2.0 percent the allowance payable on June 1, 2003; and
- new subsection (eee), which increases the retirement allowance of those who retired on or before July 1, 1982, by 6 percent, and of those who retired after July 1, 1982, but before July 1, 1993, by 1.1 percent.

S.L. 2003-359 amends G.S. 128-21(7a) to define the meaning of the term *compensation* for the purposes of Chapter 128. The act defines compensation to include performance-based compensation; conversion of additional benefits such as health, life, or disability plans to salary; adjustments or increases in salary to compensate for an employee’s increased tax liability for benefits provided by the employer; payout of vacation leave; and employee contributions to deferred compensation plans. The act explicitly excludes a number of payments and benefits from the definition of compensation, including, but not limited to, salary supplements paid for the purpose of allowing employees to purchase additional benefits; travel allowances; reimbursement of business, moving and personal expenses; and payouts for unused sick leave.

### **Criminal Background Checks of Applicants for Municipal Positions and of Firefighters**

S.L. 2003-214 (H 1024) amends G.S. Chapter 160A by creating new section 160A-164.1. The new legislation permits municipalities to request the North Carolina Department of Justice to run a criminal history record check of the state and national repositories of criminal histories on any applicant for municipal employment. In addition, S.L. 2003-182 (S 708) adds to Chapter 114 new section 114-19.12, which authorizes a designated local Homeland Security director or local law enforcement agency to request the Department of Justice to provide a criminal history on any applicant for a paid or volunteer position with a local government fire department.

### **Smallpox Vaccination Policy Required**

S.L. 2003-169 adds two new sections to the General Statutes, G.S. 160A-164.1 and 153A-94.1. The new sections, respectively, direct municipalities and counties that employ firefighters, police officers, paramedics, or other first responders to enact a policy addressing sick leave and salary continuation for employees absent from work due to an adverse medical reaction to smallpox vaccination administered pursuant to Section 304 of the federal Homeland Security Act.

### **Job Protection for Volunteer Firefighters and Rescue and EMS Workers**

S.L. 2003-103 (S 940) amends Article 1 of G.S. Chapter 166A by adding new section 166A-17. The new legislation provides that any volunteer fire department, rescue squad, or EMS member shall have the right to take leave without pay from his or her regular employment whenever that member's services are requested by the Director of the Division of Emergency Management or by the head of a local emergency management agency after a proclamation of a state of disaster by the Governor or General Assembly or upon activation of the State Emergency Response Team at Level 2 or greater. If the employee has accrued vacation or other accrued paid leave, the employee may choose whether to use accrued paid leave to cover this period of absence or to take leave without pay.

### **Firemen's and Rescue Squad Workers' Pension Fund**

S.L. 2003-362 (H 543) amends G.S. 58-86-25 to include county deputy fire marshals, assistant fire marshals, and firefighters among those eligible to participate in the Firemen's and Rescue Squad Workers' Pension Fund.

### **Public School Employees**

The General Assembly's 2003 legislation affecting public school employees is discussed in Chapter 8, "Elementary and Secondary Education."

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