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## Public Employment

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The 2005 session of the General Assembly saw few significant changes to North Carolina law affecting state and local government employees. State employees and retirees received modest salary and retirement income allowance increases. Local government employees also received modest retirement income allowance increases.

### **State Employees**

#### **Salary**

Pursuant to The Current Operations and Capital Improvements Appropriations Act of 2005, S.L. 2005-276 (S 622), the Governor's annual salary will increase to \$123,819, while the annual salaries of the members of the Council of State will increase to \$109,279. The salaries of appointed state department heads will increase to \$106,765. Other executive, legislative, and judicial branch officials also received salary increases.

The General Assembly has increased by the greater of \$850 or 2 percent the annual salaries of most other state employees, including employees of the judicial branch, the General Assembly, and the Community College System, as well as all SPA state employees. University of North Carolina EPA employees earning \$42,500 or less will receive a salary increase of \$850, while those earning more than \$42,500 will receive salary increases of 2 percent.

In addition, all state, community college, and local board of education employees who are permanent employees as of September 1, 2005, and who are eligible for annual leave will receive an additional one-time grant of five 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 state and public school employees who are on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.

The appropriations act also provides for a minimum salary of \$20,112 per year for all permanent, full-time SPA state employees and authorizes salary supplements for certain teaching personnel in the

Department of Health and Human Services and the Department of Corrections and for the staff of the Industrial Commission.

### **State Employee Retirement Systems Increases and Changes**

The appropriations act provides a 2 percent cost-of-living retirement allowance increase for retirees in the Teachers' and State Employees' Retirement System (TSERS), the Judicial Retirement System (JRS), and the Legislative Retirement System (LRS). It also adjusts the employer contribution rates for the various state retirement programs.

The appropriations act transfers the membership and retirement contributions of North Carolina Utilities Commission members serving on or after September 1, 2005, from TSERS to JRS.

Finally, the appropriations act amends G.S. 135-1(20), the definition of retirement applicable to TSERS, to (1) preclude TSERS members from any type of state employment, whether on a part-time, temporary, substitute, or contractor basis, during the six months immediately following the member's effective date of retirement; and (2) provide that there may be no intent or agreement with the employer that the employee will return to service after the six-month period. This amendment does not apply to participants in The University of North Carolina Phased Retirement Program until June 30, 2007.

### **State Health Plan**

The 2005 legislature made a number of changes to the benefits provided under the Teachers' and State Employees' Comprehensive Major Medical Plan (the State Health Plan). Although benefits under the plan remain payable on the basis of 80 percent by the plan and 20 percent by the employee, the maximum out-of-pocket payment required of employees enrolled in the plan has been increased from \$1,500 to \$2,000 per person per fiscal year, with the maximum out-of-pocket payment per employee/children or employee/family contract increasing from \$4,500 to \$6,000. In addition, member payment for the first day of a hospital stay increased from \$100 to \$150, member payment for the fees and charges associated with individual outpatient visits increased from \$50 to \$75, and member payment for each emergency room visit increased from \$100 to \$200. The appropriations act also increased the co-payments for certain types of outpatient prescription drugs: the co-payment for each branded prescription with a generic equivalent will increase from \$35 to \$40, and the co-payment for each branded or generic prescription not on the plan's formulary will increase from \$40 to \$50.

## **Local Government Employees**

### **Criminal History Checks**

S.L. 2005-358 (S 737) amends G.S. 153A-94.2 to give county boards of commissioners authority to require criminal history checks on applicants for county employment and G.S. 114-19.14 to give the Department of Justice authority to provide the criminal history of an applicant for county employment from the State and National Repositories of Criminal Histories. The Department of Justice is already authorized to provide criminal histories to municipalities pursuant to G.S. 114-19.14.

### **Local Governmental Employees' Retirement System**

S.L. 2005-276 provides a 2.5 percent cost-of-living retirement allowance increase for retirees in the Local Governmental Employees' Retirement System (LGERs).

## **Public Safety Retirement**

The appropriations act increases the maximum monthly amount that a retired sheriff may receive from the Sheriffs' Supplemental Pension Fund to \$1,500. It also increases the monthly benefit for members of the Firemen's and Rescue Squad Workers' Pension Fund to the sum of \$163 per month. Finally, it amends G.S. 143-166.2(c) to clarify that the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act includes within its coverage all state and local government law enforcement and detention officers.

## **Other Employment Legislation**

### **Notice to Division of Motor Vehicles of CDL Holder's Positive Drug Test**

S.L. 2005-156 (H 740) amends G.S. 20-17.4 and G.S. 20-37.19 and adds new G.S. 20-37.20A and G.S. 20-37.20B to require employers who, pursuant to 49 C.F.R. Part 382 and 49 C.F.R. Part 655, perform drug and alcohol tests of employees with commercial driver's licenses (CDLs) to notify the Division of Motor Vehicles (DMV) in writing of any confirmed positive drug or alcohol test. Upon receipt of such a notice, DMV will suspend the CDL of the individual until the driver has completed the assessment and treatment required by 49 C.F.R. Section 382.503. A notation of the suspension will remain on the driver's DMV record for two years.

### **Restrictions on Use of Social Security Numbers**

S.L. 2005-414 (S 1048) (the Identity Theft Protection Act of 2005) adds new G.S. 132-1.10 to create new restrictions on how state and local governments may request and use Social Security numbers. The act prohibits government units from collecting these numbers unless the units are authorized by law to do so or unless the collection of the Social Security number is "imperative" for the performance of that agency's duties and responsibilities. As applied to employment practices, the act prohibits employers from collecting Social Security numbers from job applicants and from using Social Security numbers as employee identifiers. Collection of Social Security numbers for tax withholding purposes is not affected as this is specifically authorized by the Internal Revenue Code.

When employers are authorized to collect Social Security numbers, the act requires that they segregate the number on a page separate from the remainder of an associated document and redact the number when it appears on a personnel document validly disclosed in accordance with a public records request. Employers must also provide a statement of the purpose for which the Social Security number will be used if an employee so requests and cannot use the number for any purpose other than the stated purpose.

### **Changes to Certain Employment Security Contribution Rates**

S.L. 2005-410 (S 757) makes a number of clarifying and technical changes to the Employment Security Act, the most important of which are amendments to G.S. 96-9(b)(3)d3 and G.S. 96-9(a)(3)d5. These amendments change the way certain aspects of the contribution rate are calculated.

### **Payroll Deduction for Employees' Association**

S.L. 2005-276 amends G.S. 143-3.3(g) to extend to local governments the authority to make periodic payroll deductions of a designated sum from employee paychecks for payment to an employees' association. This type of deduction may now be made for all North Carolina public employees. This provision, however, also changes the definition of a qualifying employee organization from one that has at least two thousand members, the majority of whom are employees of the state or a

public school system, to one that has at least two thousand members, five hundred of whom are employees of the state, a political subdivision, or a public school system.

### **Public School Employees**

The General Assembly's 2005 legislation affecting public school employees is discussed in Chapter 10, "Elementary and Secondary Education."

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