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Public Employment

The 2007 General Assembly enacted several pieces of legislation that affect public employees. Among the session's most notable acts were the decision to discontinue the traditional indemnity plan offering under the State Health Plan effective July 1, 2008, and the decision to standardize coverage under the State Personnel Act by amending the definition of *career State employee* to include local government SPA employees with twenty-four months of service. The session also saw state employees and retirees receive salary and retirement income allowance increases.

Legislation Affecting All Public Employees

Personnel Records

S.L. 2007-508 (S 1546) amends the statutes relating to the privacy of public employee personnel records to clarify that (1) public information includes the terms of an employee's employment contract, whether the contract is written or oral, and (2) the words salary and compensation, as used in the personnel privacy statutes, include pay, benefits, incentives, bonuses, deferments, and all other forms of compensation paid by the employing government entity. S.L. 2007-508 makes these changes to each of the following statutes: G.S. 115C-320 (public school employee personnel records), G.S. 115D-28 (community college employee personnel records), G.S. 122C-158(b) (mental health authority/local management entity personnel records), G.S. 126-23 (state employee personnel records), G.S. 130A-45.9(b) (public health authority personnel records), G.S. 153A-98(b) (county employee personnel records), G.S. 160A-168(b) (municipal employee personnel records), and G.S. 162A-6.1(b) (water and sewer authority employee personnel records).

S.L. 2007-508 also makes changes to G.S. 126-22, relating to state employee records, and G.S. 131E-257.2, relating to public hospital employee records. It amends G.S. 126-22 to clarify the statute's broad definition of employee and employer and to include within the definition of personnel file any employment-related or personal information held by the Retirement Systems Division of the Department of State Treasurer or by the Office of State Personnel. The act amends G.S. 131E-257.2 to include employment contracts in the definition of personnel file, and it deletes from the list of information that is public with respect to public hospital employees both current salary and the date or amount of the most recent increase or decrease in salary. G.S. 131E-257.2

now also provides that the following are public information: base salary, bonus compensation, plan-based incentive compensation, and dollar value of all other compensation of the five most highly compensated officers and of the hospital's five key employees.

State and Local Government Retirement Systems

The General Assembly amended the statutes governing the Teachers' and State Employees' Retirement System (TSERS), the Judicial Retirement System (JRS), the Legislative Retirement System (LRS), and the Local Governmental Employees' Retirement System (LGERS) in S.L. 2007-179 (S 659) to provide that elected officials who are members of the retirement systems and who are convicted of a violation of state or federal law involving public corruption or a felony violation of an election law forfeit their retirement allowances.

S.L. 2007-388 (S 720) directs the Retirement Systems Division of the Department of State Treasurer to open enrollment in the contributory death benefit for retired members of the state retirement systems to current retirees from February 1, 2008, through May 31, 2008.

State and Local Government Law Enforcement Officer Special Separation Allowance

S.L. 2007-69 (H 328) amends G.S. 143-166.41(a) to provide that the annual law enforcement officer special separation allowance is to be paid in equal installments on the payroll frequency paid by the employer. The statute previously directed law enforcement employers to pay the allowance in equal installments on the last day of each month.

State Employees

Salary

Pursuant to S.L. 2007-323 (H 1473) (the appropriations act), the Governor's annual salary will increase to \$135,854, while the annual salaries of the members of the Council of State will increase to \$119,901. The salaries of appointed state department heads will increase to \$117,142. Other executive, legislative, and judicial branch officials also received salary increases.

The General Assembly increased the salaries of all permanent, full-time SPA employees by 4 percent. The salaries of all non-elected employees of the General Assembly were also increased by 4 percent.

Community college faculty and professional staff supported by state funds received a 5 percent salary increase. All other community college employees supported by state funds received a salary increase of 4 percent.

For all University of North Carolina faculty and EPA employees supported by state funds, the General Assembly authorized aggregate average increases of 5 percent. For teaching employees of the North Carolina School of Science and Mathematics, the General Assembly authorized aggregate average increases of 5 percent.

State Health Plan

In perhaps one of the biggest changes to health insurance coverage for state employees in recent years, the General Assembly provided for the demise of the traditional major medical indemnity plan effective July 1, 2008. The appropriations act provides that on July 1, 2008, any current state employee or retiree who has not yet enrolled in one of the previously optional preferred provider network (PPO) benefit plans will be automatically enrolled in the Standard PPO option. Also effective July 1, 2008, the Teachers' and State Employees' Comprehensive Major Medical Plan is renamed the State Health Plan for Teachers and State Employees. Effective July 1,

2008, the State Health Plan will offer employee and spouse coverage in addition to the three types of coverage now offered, namely, employee only, employee and child(ren), and employee and family.

For fiscal year 2007–08, the appropriations act raises the deductible for members participating in the traditional indemnity plan from \$350 to \$450 per individual, subject to a new aggregate maximum of \$1,350.00 per employee/children or employee/family coverage contract. Previously, the aggregate maximum was \$1,050.00. The act also increases the co-payment under the traditional indemnity plan from \$15 to \$25 per member per visit. In addition, the General Assembly increased the co-payment for each preferred branded prescription from \$25 to \$30 under both the traditional indemnity plan and the optional PPO plans.

There were no substantive changes to benefits under either the traditional indemnity plan or the optional PPO plans this year.

S.L. 2007-521 (H 1593) directs the executive administrator of the State Health Plan to evaluate the impact of converting the plan's benefit year plan from the current fiscal year basis to a calendar year basis and to report to the Committee on Employee Hospital and Medical Benefits and the Fiscal Research Division.

State Employee Retirement Systems Increases and Changes

The appropriations act provides a 2.2 percent cost-of-living retirement allowance increase for retirees in TSERS, JRS, and LRS. It also adjusts the employer contribution rates for the various state retirement programs.

The appropriations act also amends the statutory sections governing the JRS to provide for the membership of all persons serving as public defenders as of July 1, 2007.

S.L. 2007-233 (H 1414) amends G.S. 134-4(g) to provide that teachers and state employees who serve in the uniformed services and return to state service within two years after the date of discharge are to receive creditable service under TSERS for the maximum period that they are entitled to reemployment under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

State Disability Income Plan

S.L. 2007-325 (H 1415) makes several changes to the North Carolina Disability Income Plan. With respect to the short-term disability plan, the act amends G.S. 135-105(a) by providing that TSERS participants applying for short-term disability benefits may count toward the one-year membership service prerequisite for short-term disability benefits any time spent in the United States uniformed services during the three years immediately preceding the date of disability. S.L. 2007-325 also makes two major changes to the terms of the long-term disability income plan. First, the act amends G.S. 135-106(a) to provide that state employees become eligible for benefits when they are "mentally or physically incapacitated for the further performance of duty." This change in effect undoes the amendment made to this section by S.L. 2004-78, which had required that employees be unable to perform the duties of their own jobs or to perform any occupation or employment commensurate with their education, training, or experience before they could qualify for long-term disability benefits.

The act also amends G.S. 135-106 and 135-107 to provide for payment of the long-term disability benefit only for the first thirty-six months of the long-term disability period. After the end of this period, the benefit payment ceases unless and until the beneficiary receives primary Social Security disability benefits, in which case the long-term disability plan will continue making payments, subject to a set-off for Social Security disability benefits, Department of Veterans Affairs benefits, and any applicable workers' compensation benefits.

Career Banding of SPA Employees

The 2007 appropriations act authorizes the Office of State Personnel and state agencies to begin or to continue developing and implementing career banding of nursing, engineering, library, fiscal, and pharmacy positions and authorizes the University of North Carolina to continue implementation of career banding of its SPA employees. In the 2006 appropriations act, the General Assembly had suspended any further implementation of career banding for SPA employees pending a review of the State Personnel Act by a legislative study commission.

UNC SPA Employees

S.L. 2007-413 (S 1353) directs the President of the University of North Carolina to appoint a task force to review the application of the State Personnel Act to university employees and report to the President and the Board of Governors by January 15, 2008. The act directs the Board of Governors to forward any recommendations it approves to the Joint Legislative Education Oversight Committee by March 24, 2008, for consideration in the 2008 regular session.

North Carolina Cooperative Extension Service Employees

In S.L. 2007-195 (H 847), the General Assembly amended G.S. 126-5(c1), 116-33.2, and 153A-439 to clarify that employees of the North Carolina Cooperative Extension Service are not subject to the State Personnel Act and to authorize the Board of Trustees of North Carolina State University to adopt personnel policies that govern extension service employees even when the employees are working in or with a county.

Criminal Background Checks of State Information Technology Employees

S.L. 2007-155 (S 878) enacts new G.S. 147-33.77(g) to authorize the State Chief Information Officer to require criminal history checks, including a fingerprint search of the State and National Repositories of Criminal Histories by the State Bureau of Investigation, of any applicant or current employee. The new subsection provides that the criminal history check is not a public record pursuant to G.S. Chapter 132. The act also amends G.S. 147-33.113(a)(4) (which provides for criminal history checks of state agency information technology security liaisons with the State Chief Information Officer) to state explicitly that the criminal background checks are not public records. Finally, the act enacts new G.S. 114-19.20 authorizing the Department of Justice and the State Bureau of Investigation to provide criminal histories of any applicant, employee, volunteer, or contractor of the Office of Information Technology Services upon receipt of a consent form signed by the subject of the criminal history search.

Criminal Background Checks for EMS Personnel

S.L. 2007-411 (H 535) amends G.S. 131E-159 (which sets forth the requirements for the credentialing of emergency medical services personnel) to provide for the Department of Health and Human Services to obtain and the Emergency Medical Services Disciplinary Committee to review criminal background check on all applicants for EMS credentials. The act also amends G.S. 114-19.21 to authorize the Department of Justice to provide to the Department of Health and Human Services a criminal history of any person applying for, holding, or renewing EMS credentials and amends G.S. 143-519(a) to authorize the Emergency Medical Services Disciplinary Committee to consider criminal backgrounds checks in making recommendations about an individual's eligibility for EMS credentialing.

Veterans Preference in State Hiring

S.L. 2007-286 (H 1412) amends G.S. 128-15(c) and G.S. 126-82(a) and (b) by adding language to clarify that the preference in hiring given to veterans applies both to initial employment with the state as well as to subsequent hirings, promotions, reassignments, and lateral transfers. In addition, S.L. 2007-287 amends G.S. 126-2(b)(3) to require that one of the two state employee members of the State Personnel Commission be a veteran nominated by the Veterans' Affairs Commission.

Gender Equity on Decision-Making Regulatory Bodies

S.L. 2007-167 (H 824) amends G.S. 143-157.1, which directs appointing authorities to public bodies to select from the most qualified candidates for appointment those persons whose selection would promote a membership that more accurately reflects the proportion of each gender in the state or in the geographic region represented by that public body. The act requires the Secretary of State to prescribe a reporting form and requires each state appointing authority to use that form to report to the Secretary of State. The act also amends the statute by explicitly listing the particular local government bodies whose gender composition must be reported.

Local Government Employees

Local Governmental Employees' Retirement System

The General Assembly did not provide for a cost-of-living retirement allowance increase for members of LGERS this year. In the absence of such a legislative provision, the LGERS Board of Trustees may authorize a cost-of-living increase.

Local Government Employees Subject to the Personnel Act

S.L. 2007-372 (S 1023) amends G.S. 126-1.1 to include in the definition of *career State employee* any local government employee employed for the immediately preceding twenty-four months in a position subject to the State Personnel Act. This change makes the treatment of state and local government SPA employees consistent with one another. State employees subject to the Personnel Act were not entitled to the act's protections until they had held their positions for twenty-four months, while local government employees subject to the Personnel Act received the act's protections upon completion of a probationary period of anywhere from three to nine months. Now all employees subject to the Personnel Act will have the same waiting period.

Local Government Retiree Health Benefits

S.L. 2007-384 (S 580) directs the Department of State Treasurer to establish the Local Government Other Post-Employment Benefits Fund to manage and invest contributions made to the fund by local government employers to provide post-employment benefits such as retiree health benefits.

Local Government Participation in the State Health Plan

In S.L. 2007-405 (H 508), the General Assembly authorized one additional county employer and six additional municipal employers to enroll their employees or retirees in the State Health Plan. These local government employers are Mitchell County and the towns of Biltmore Forest, Black Creek, Black Mountain, Blowing Rock, Ocean Isle Beach, Sunset Beach, and Tabor City.

Public School Employees

The General Assembly's 2007 legislation affecting public school employees is discussed in Chapter 10, "Elementary and Secondary Education."

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