

Senior Citizens

In its 1998 report to the General Assembly, the North Carolina Study Commission on Aging offered eleven legislative recommendations to address the needs of the 1.25 million North Carolinians who are age sixty or older. By the end of the 1998 legislative session, the General Assembly had enacted six of the commission's recommendations: (1) providing Medicaid coverage for all elderly or disabled persons with incomes at or below the federal poverty level; (2) allowing a state income tax credit for payment of premiums for long-term care insurance; (3) providing additional funding for home- and community-based services for the elderly; (4) providing additional funding for senior centers; (5) providing funding for area agencies on aging; and (6) eliminating the payment cap for out-of-home respite care.

In addition, the 1998 General Assembly (1) eliminated the position of Assistant Secretary for Aging in the Department of Health and Human Services; (2) increased the amount of financial assistance for elderly or disabled residents of adult care homes; (3) mandated new staffing requirements for adult care homes; (4) extended the moratorium on construction of additional adult care home beds; (5) appropriated \$400 million for tax refunds for federal, state, and local government retirees whose retirement benefits were illegally taxed by the state; (6) repealed the state's inheritance tax; (7) amended the state's laws governing reverse mortgages; (8) increased retirement benefits for state and local government employees; and (9) considered, but ultimately failed to enact, legislation expanding the homestead property tax exemption for low-income elderly or disabled homeowners.

Government Programs and Services for Senior Citizens

Assistant Secretary for Aging

G.S. 143B-181.2 requires the Secretary of Health and Human Services to appoint an Assistant Secretary for Aging in the Department of Health and Human Services (DHHS) to monitor all DHHS aging programs, identify program needs for the state's aging population, initiate special studies on aging matters, recommend program changes, coordinate intradepartmental program efforts for the elderly, assure that services are delivered to the state's senior citizens, and exercise other duties and responsibilities with respect to state aging policy and programs.

Although the General Assembly did not expressly repeal G.S. 143B-181.2, the 1998 Appropriations Act, S.L. 1998-212 (S 1366), eliminates the position of DHHS Assistant Secretary for Aging and all state funding for this position for fiscal year 1998-99.

Appropriations to the DHHS Division of Aging

The 1998 Appropriations Act, S.L. 1998-212, increases state General Fund appropriations to the DHHS Division of Aging (DoA) by \$8,546,044 for state fiscal year 1998-99—a 35 percent increase over the division's state appropriation for 1997-98. The total 1998-99 General Fund appropriation for DoA is \$32,156,171. (DoA's total budget for 1998-99 is approximately \$66 million, including more than \$26 million in federal funding.)

Almost half of the increased General Fund appropriation for DoA (\$4,146,044) is earmarked as recurring funding for home- and community-based services for persons who are at least sixty years old and are on the waiting list for these services. The remainder of DoA's increased funding is for construction of new senior centers (\$1.5 million, nonrecurring); operation of existing senior centers (\$2 million, recurring); and funding for North Carolina's eighteen area agencies on aging (\$900,000, recurring).

The 1998 Appropriations Act also allocates \$5,769,190 from the federal Social Services Block Grant (including \$3,853,956 transferred from the federal Temporary Assistance for Needy Families Block Grant to the Social Services Block Grant) to the Division of Aging for home- and community-based services for the elderly.

Medicaid

North Carolina's Medicaid program pays for the cost of medical care (hospital, nursing home, doctors, prescription drugs, and so forth) for individuals who are at least sixty-five years old and (a) receive federal Supplemental Security Income (SSI) payments, (b) have incomes that are below the state's "medically needy" income limit, or (c) need all of their income in excess of the medically needy income standard to pay for out-of-pocket medical expenses (a practice known as "spending down"). [Elderly (or disabled) persons who have incomes that are over the SSI or medically needy income limits, but at or below the federal poverty level, are eligible for a limited Medicaid benefit that pays the cost of their Medicare premiums and Medicare deductible or coinsurance payments.] Because the SSI income limit is about 75 to 80 percent of the federal poverty level and North Carolina's medically needy income limit is only 35 percent of the federal poverty level, many poor, elderly North Carolinians are not eligible for full Medicaid benefits. (Although almost all older Americans are covered by Medicare, a 1992 study estimated that only 30 percent of Americans who were at least sixty-five years old and had incomes under the federal poverty level were covered by Medicaid.)

Section 12.12D of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), directs DHHS to provide full Medicaid coverage for all elderly (or disabled) persons whose incomes are at or below the federal poverty level (approximately \$671 per month for an individual and \$904 per month for a couple). This means that elderly (or disabled) North Carolinians with incomes over the SSI or medically needy income limits but at or below the federal poverty level will now be eligible for full Medicaid benefits (hospital, nursing home, doctors, prescription drugs, and so forth) without having to "spend down" to the medically needy income standard. (Elderly or disabled persons with incomes over the federal poverty level may still qualify for Medicaid coverage if they spend down to the medically needy income standard.) To qualify for this expanded Medicaid coverage, elderly (or disabled) persons may not own assets (other than their homes, household goods, or other excluded assets) with a value of more than \$4,000 (or \$6,000 for a couple) and must meet other Medicaid eligibility requirements.

The expanded Medicaid coverage for elderly (or disabled) persons with incomes at or below the federal poverty level will be effective no earlier than January 1, 1999. S.L. 1998-212 appropriates an additional \$26,955,790 in state funding for expanded Medicaid eligibility for poor elderly (or disabled) persons. State funds will pay about 30 percent of the cost of expanded

Medicaid eligibility for poor elderly (or disabled) North Carolinians. Federal funding will cover approximately 65 percent of the cost of providing Medicaid benefits to elderly (or disabled) North Carolinians with incomes at or below the federal poverty level; counties will be responsible for paying about 5 percent of the cost of expanded Medicaid coverage for poor elderly (or disabled) county residents.

Financial Assistance for Elderly or Disabled Residents of Adult Care Homes

The State-County Special Assistance program (established under pt. 3, art. 2, of G.S. Ch. 108A) provides financial assistance on behalf of elderly or disabled residents of adult care homes whose incomes and resources are insufficient to cover the cost of their room, board, and care.

Effective October 1, 1998, Section 12.16B(b) of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), increases from \$915 to \$956 per month the maximum income limit and maximum payment rate under the State-County Special Assistance program. S.L. 1998-212 also appropriates from the General Fund to the Department of Health and Human Services \$3,765,649 in additional state funding to pay the state's share of the increased State-County Special Assistance payments to adult care homes in state fiscal year 1998-99. Because the state and counties share equally in paying the cost of this assistance for elderly or disabled residents of adult care homes, S.L. 1998-212 will require North Carolina counties to provide approximately \$3.7 million in additional county funding for State-County Special Assistance payments for 1998-99.

Out-of-Home Respite Care Program

North Carolina's respite care program (G.S. 143B-181.10) provides relief to the unpaid primary caregivers of elderly or disabled adults who cannot be left alone because of mental or physical problems. In appropriate cases, respite care may include temporary out-of-home placement of an elderly or disabled adult in a hospital, nursing facility, adult care home, adult day health center, or adult day care center in order to provide total respite for the adult's caregiver. State law, however, provided that payments under the state respite care program for the out-of-home placement of an elderly or disabled adult could not exceed the reimbursement rate for care in an adult care home.

Effective August 14, 1998, until July 1, 2000, S.L. 1998-97 (S 1149) repeals this statutory limitation on payments for respite care for out-of-home placements and directs the Division of Aging to report to the North Carolina Study Commission on Aging by October 1, 1999, regarding the impact of this change on the state respite care program.

Senior Centers

Section 12.18A of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), provides that state funding to support existing senior centers and to assist in the development of new senior centers must be allocated equally among senior centers throughout the state and may not exceed 90 percent of the total funding for this purpose. State funding for the construction, renovation, and equipping of new senior centers will be made through grants of at least \$25,000 and not more than \$100,000 for each new senior center and must be matched by local funding in an amount that is at least 25 percent of the state grant.

Area Agencies on Aging

Section 12.20C of S.L. 1998-212 provides that state funding for area agencies on aging must be used for planning, coordination, and operational activities that enhance these agencies' abilities to provide services, information, and education to consumers, or to better meet the data and technical assistance needs of providers, local planning committees, and local governments.

Long-Term Care Pilot Projects

Section 12.12B of S.L. 1998-212 requires DHHS to report to the Aging Study Commission and to the House and Senate Human Resources Appropriations Committees if DHHS obtains a Medicaid waiver to implement two long-term care pilot projects and prohibits DHHS from expanding this project beyond two initial pilot programs without first notifying the House and Senate Human Resources Appropriations Committees.

Housing for the Elderly

Section 12.4(b) of S.L. 1998-212 transfers \$2 million from the Work First Reserve Fund to the Housing Trust Fund for affordable housing for the elderly.

Nursing Homes, Adult Care Homes, and Home Health Agencies

State-County Special Assistance Payments to Adult Care Homes

The State-County Special Assistance program (established under pt. 3, art. 2, of G.S. Ch. 108A) provides financial assistance on behalf of elderly or disabled residents of adult care homes whose incomes and resources are insufficient to cover the cost of their room, board, and care. Effective October 1, 1998, Section 12.16B(b) of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), increases from \$915 to \$956 per month the maximum payment rate to adult care homes under the State-County Special Assistance program (G.S. 108A-40).

Adult Care Home Staffing

Section 12.16B of S.L. 1998-212 amends G.S. 131D-4.3(a)(5) to require the Social Services Commission to adopt rules requiring adult care homes to meet the following minimum staffing requirements:

- first shift (morning): the greater of (a) 0.4 hours of aide duty for each resident (licensed capacity or resident census) or (b) 8.0 hours of aide duty for each twenty residents (licensed capacity or resident census) plus 3.0 hours for all other residents;
- second shift (afternoon): the greater of (a) 0.4 hours of aide duty for each resident (licensed capacity or resident census) or (b) 8.0 hours of aide duty for each twenty residents plus 3.0 hours for all other residents (licensed capacity or resident census);
- third shift (night): 8.0 hours of aide duty for each thirty residents or fewer (licensed capacity or resident census).

In addition to meeting these requirements, adult care homes must provide staff to meet the needs of the facility's "heavy care" residents at a level equal to the amount of staff time reimbursed by the Medicaid program.

S.L. 1998-212 also requires DHHS to use up to \$1 million in appropriated funds (matched equally by county funding) to make grants to adult care homes that are required to add staff, or that have added staff, to comply with the increased third-shift staffing requirements of G.S. 131D-4.3(a)(5). In making these grants, DHHS must consider the licensed capacity of the facility (as of August 1, 1998), the facility's occupancy rate, and the percentage of the facility's residents who receive State-County Special Assistance. An adult care home that receives a staffing grant must provide documentation to DHHS showing its compliance with the staffing ratios established under G.S. 131D-4.3(a)(5) and must repay the grant if it is found not to have complied with these staffing requirements. DHHS must incorporate staffing grants into its State-County Special Assistance payment methodology for fiscal year 2000-01.

Adult Care Home Moratorium

In 1997, the General Assembly imposed a one-year moratorium on the construction of additional adult care home beds. S.L. 1997-443, sec. 11.69. Section 12.16C of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), extends the 1997 adult care home moratorium until August 26, 1999, and makes two changes with respect to exemptions from the moratorium. First, S.L. 1998-212 changes from August 28, 1997, to August 26, 1997, the date on which a county's adult care home vacancy rate is calculated to determine whether the county is exempt from the moratorium. Second, S.L. 1998-212 exempts from the moratorium adult care home beds that are included in an application pursuant to Article 9 of G.S. Chapter 131E (North Carolina's certificate of need statute) filed with DHHS before August 28, 1997, or between July 1 and August 1, 1998.

Health Care Personnel Registry

G.S. 131E-256 requires the Department of Health and Human Services to maintain a health care personnel registry containing the names of all health care personnel working in health care facilities (including adult care homes, nursing facilities, and home health agencies) who have been found responsible for, or accused of, the abuse or neglect of a resident or patient of a health care facility, or who have been found responsible for, or accused of, other specified wrongdoing involving a resident, patient, or health care facility.

Effective January 1, 1999, Section 12.16E of the 1998 Appropriations Act, S.L. 1998-212 (S 1366) makes three changes to G.S. 131E-256. First, it includes within the definition of "health care personnel" unlicensed assistant personnel, including habilitative aides and health care technicians, who provide hands-on care. Second, it expands the definition of "health care facilities" to include state-operated facilities for the mentally ill, the developmentally disabled, or substance abusers that are excluded from licensure under Article 2 of G.S. Chapter 122C and residential facilities and hospitals for the mentally ill, the developmentally disabled, or substance abusers that are licensed under G.S. 122C-23. Third, it establishes a procedure by which health care personnel may contest the inclusion in the health care personnel registry of information involving accusations of wrongdoing under G.S. 131E-256(a)(2).

Division of Facility Services Fee Schedule

Section 12.16D of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), requires the DHHS Division of Facility Services to develop a fee schedule to defray the cost of conducting inspections of health care facilities (including nursing homes and adult care homes). DHHS was required to report the proposed fee schedule to the Joint Legislative Health Care Oversight Committee and to the House and Senate Human Resources Appropriations Committees by December 1, 1998.

Other Legislation of Interest to Senior Citizens

Property Tax Exemption for Elderly or Disabled Homeowners

State law [G.S. 105-277.1(a)] provides property tax relief for low-income elderly or disabled homeowners by exempting a specified amount of the value of their homes from city and county property taxes. In 1997, legislation to expand this homestead property tax exemption for the elderly and disabled was introduced in both the House and the Senate.

The House Bill (H 37) proposed increasing the amount of value excluded from property tax from \$20,000 to \$25,000 and increasing the maximum income limit for eligibility for property tax relief from \$15,000 to \$25,000 per year. House Bill 37 was referred to the House Finance Committee but was not brought to the floor for a vote by the House of Representatives.

The Senate Bill (S 421) proposed a constitutional amendment that, if approved by the voters, would authorize the General Assembly to enact legislation allowing each county to increase the amount of the homestead property tax exemption for elderly or disabled homeowners and to increase the maximum income limit to allow more elderly or disabled homeowners to qualify for property tax relief. Senate Bill 421 passed the Senate on April 23, 1997, was referred to the House Ways and Means Committee, and remained eligible for consideration in the 1998 legislative session.

Legislation (H 1268 and S 1169) was also introduced in the 1998 session to expand homestead property tax relief for the elderly and disabled by increasing the property tax exclusion amount from \$20,000 to \$25,000 and increasing the income limit from \$15,000 to \$25,000. Neither of these bills, however, was reported out of committee, and the Senate refused to accept a House amendment to another bill (S 1092) that incorporated the provisions of House Bill 1268.

Expansion of the homestead property tax exemption, however, resurfaced during the closing days of the 1998 regular session. On October 7, 1998, the House amended another Senate Bill (S 1241) to incorporate the homestead property tax relief provisions of House Bill 37. Senate leaders, however, refused to accept the House amendment, and differences between the Senate and House approaches with respect to homestead property tax relief for the elderly became one of several issues that complicated House-Senate budget negotiations at the end of the session.

The following week, House and Senate leaders apparently agreed on a compromise proposal incorporating a statewide increase of the income threshold for homestead property tax relief and a proposed constitutional amendment authorizing expansion of homestead property tax relief by local option, which was incorporated into a proposed House committee substitute for Senate Bill 421. The compromise, however, fell apart after the House Finance Committee amended the proposal to require the state Department of Revenue to reimburse cities and counties for half of the property tax revenue lost as a result of increasing the income limit for the homestead property tax exemption (approximately \$1 million annually). The House Appropriations Committee subsequently stripped the provisions for statewide expansion of the homestead property tax relief from Senate Bill 421, leaving only the Senate's proposed constitutional amendment allowing expansion of the homestead property tax exemption by local option.

On October 26, a final attempt to amend Senate Bill 421 to include a statewide increase in the income threshold for homestead property tax relief was defeated by the House of Representatives, followed by a House vote defeating the Senate's proposal for local option homestead property tax relief.

Thus, despite the recommendation of the Aging Study Commission, a flurry of last-minute activity and negotiation, and an apparent agreement on the issue, the General Assembly ultimately failed to enact any legislation expanding the homestead property tax exemption for low-income elderly or disabled homeowners.

State Income Tax Refund or Credit for Federal, State, and Local Government Retirees

On May 8, 1998, the North Carolina Supreme Court ruled that North Carolina had illegally taxed the retirement benefits of some local and state government retirees. *Bailey v. State of North Carolina*, 348 N.C. 130, 500 S.E.2d 54 (1998). Following the court's decision, the state reached a settlement with the plaintiffs in *Bailey* and five related cases. Under the settlement, the state will pay approximately \$799 million to federal, state, and local government retirees through state income tax refunds or credits to reimburse these retirees for the state income taxes that they paid with respect to their federal, state, or local government retirement benefits. (As a result of the *Bailey* case, the state also will lose approximately \$128.6 million in anticipated income tax revenues for state fiscal year 1998-99.)

Section 2 of S.L. 1998-164 (S 1262), enacted September 30, 1998, transfers from General Fund overcollections for state fiscal year 1997-98 to the Office of State Treasurer \$400 million for payments to federal, state, and local retirees under the June 10, 1998, consent orders entered

in the *Bailey, Emory, and Patton* cases. The state will be required to make an additional \$399 million payment under the consent orders in July 1999.

State Income Tax Credit for Long-Term Care Insurance Premiums

Section 29A.6 of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), enacts a new statute, G.S. 105A-151.28, allowing taxpayers to claim a state income tax credit for 15 percent of the cost of the premiums they pay for qualified long-term care insurance policies for themselves, their spouses, or their dependents. The maximum amount of the state income tax credit for long-term care insurance premiums is \$350 per policy per year, and the credit is not allowed for payments that are deducted from, or not included in, the taxpayer's gross income or that would result in a double tax benefit. The credit is not refundable (i.e., it may not exceed the amount of the taxpayer's income tax liability reduced by other allowable tax credits other than payments by the taxpayer), may be claimed only by individual taxpayers, and may not be claimed by trusts or estates. The new credit is effective for tax years beginning on or after January 1, 1999, and expires on January 1, 2004.

The General Assembly's Fiscal Research Division estimates that the tax credit for long-term care insurance will cost the state between \$8 million and \$11 million per year in reduced tax revenues during the next four fiscal years. S.L. 1998-212 directs the Legislative Research Commission to study the effectiveness of the new credit for long-term care insurance and report the results of its study to the 2004 regular session of the General Assembly. The new state income tax credit for long-term care insurance premiums is also discussed in Chapter 26 (State Taxation).

Property Tax Exemption for Continuing Care Retirement Homes

Section 29A.18 of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), which temporarily revises state law governing the exemption of certain nonprofit homes for the elderly or disabled from local property tax, is discussed in Chapter 17 (Local Taxes and Tax Collection).

Repeal of the State Inheritance Tax

Effective January 1, 1999, Section 29A.2 of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), repeals North Carolina's inheritance tax (art. 1 of G.S. Ch. 105) and replaces it with a state estate tax that is equal in amount to the state death tax credit allowed under the federal estate tax. The repeal of North Carolina's inheritance tax applies with respect to persons dying on or after January 1, 1999. Repeal of the state inheritance tax is discussed in more detail in Chapter 26 (State Taxation).

Reverse Mortgages

In 1991, the General Assembly enacted legislation (G.S. Ch. 53, art. 21) authorizing banks and other lending institutions to make "reverse mortgage" loans to homeowners who are at least sixty-two years old. Reverse mortgages allow elderly homeowners to use the equity value of their homes to supplement their incomes or meet other financial needs. In a reverse mortgage, a bank generally makes monthly payments to an elderly homeowner up to a specified amount that is based on the equity value of the borrower's home. As security for the loan, the bank takes a mortgage on the borrower's home. Rather than making monthly mortgage payments to the bank, the borrower uses the monthly payments from the bank to supplement his or her income or meet other financial needs and does not repay the loan or pay interest on the loan as long as he or she lives in the home. When the elderly borrower dies or sells his or her home, the outstanding balance of the loan (principal, accrued interest, and other allowable charges minus any payments made by the borrower) is paid to the bank from the money the borrower or the borrower's estate receives from selling the borrower's home.

Under North Carolina's reverse mortgage statutes, an elderly homeowner could never be required to pay the bank more than the outstanding balance of the loan. In addition, the law expressly prohibited reverse mortgage loans that allowed a lender to receive "shared appreciation": any amount that (1) was in addition to the outstanding balance of the loan (principal, accrued interest, and other allowable charges minus payments made by the borrower) and (2) was equal to a percentage of the net appreciation (increase) in the value of the borrower's home during the term of the reverse mortgage loan.

S.L. 1998-116 (H 1075) amends North Carolina's reverse mortgage statutes to allow lenders to contract for and receive "shared appreciation" or "shared value" in connection with reverse mortgage loans. Under G.S. 53-270.1, as enacted by S.L. 1998-116, a reverse mortgage loan may now include a provision that allows the lender to receive, in addition to the principal and interest accruing on the unpaid balance of the loan, (1) "shared appreciation" in an amount not exceeding 10 percent of the increase in the value of the borrower's property from the date of loan origination to the date of loan repayment or (2) "shared value" in an amount not exceeding 10 percent of the value of the property on the date the loan is repaid.

In order for a lender to receive shared appreciation or shared value in connection with a reverse mortgage loan,

1. the loan must be outstanding for at least 24 months;
2. the loan must be guaranteed or insured by a federal government agency; originated under a federally approved reverse mortgage loan program and sold within ninety days of closing to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; or originated under a reverse mortgage loan program of a state-authorized reverse mortgage lender;
3. the loan must provide some "additional economic benefit" (such as larger monthly payments or a larger line of credit) to the borrower in exchange for the shared appreciation or shared value;
4. the borrower must be given, at least fourteen days before closing, a disclosure statement that explains the additional costs and benefits of shared appreciation or shared value and that compares those costs and benefits with a comparable loan that does not provide for shared appreciation or shared value; and
5. a state-certified reverse mortgage counselor must certify that the borrower has received counseling on the advisability of a reverse mortgage loan, the various types of reverse mortgage loans, the availability of other financial options and resources for the borrower, and potential tax consequences.

The 1998 amendments to North Carolina's reverse mortgage law became effective October 1, 1998, and apply to contracts for reverse mortgage loans entered into on or after that date.

Medicare

Medicare Provider Sponsored Organizations. S.L. 1998-227 (H 74) allows new Medicare managed care organizations (similar to health maintenance organizations or HMOs) run by doctors and hospitals (known as "provider sponsored organizations" or PSOs) to provide medical care to elderly and disabled patients under the federal Medicare Plus Choice program. PSOs will be regulated by the N.C. Department of Health and Human Services, rather than the N.C. Department of Insurance, which regulates other Medicare managed care plans. S.L. 1998-227 is discussed in more detail in Chapter 11 (Health).

Medicare Supplement Insurance. Section 12 of S.L. 1998-211 (H 926) amends the state laws regulating "Medicare supplement" (or "Medi-gap") insurance (art. 54 of G.S. Ch. 58) to require that insurers provide full disclosure to potential policyholders with respect to the use by the insurer of "attained age" as a structure or methodology for the insurer's Medicare supplement insurance rates. (Under an "attained age" structure or methodology, the rates for Medicare supplement insurance increase based on the increased age of the insured person.) The disclosure

must explain “attained age” rating, illustrate the effect of attained age rating on the cost of premiums over a period of at least ten years based on the insured’s life expectancy, and advise the potential policyholder of the availability of “issue age” insurance policies under which the cost of premiums does not increase as the insured grows older.

Section 13 of S.L. 1998-211 requires insurers to make the standard Medicare Supplement Plan A available, without regard to medical condition, health status, or claims experience, to persons who are under the age of sixty-five and have begun receiving Medicare benefits based on their disability within the six months prior to their application for Medicare supplement insurance. S.L. 1998-211 also authorizes the Commissioner of Insurance to adopt rules that are necessary to conform Medicare supplement policies to the requirements of federal law and regulations governing Medicare supplement insurance.

Health Care Power of Attorney; Advance Instruction for Mental Health Treatment

S.L. 1998-198 (S 1287), amending the state’s laws regarding health care powers of attorney and advance instructions for mental health treatment, is discussed in Chapter 18 (Mental Health and Related Laws).

Retirement Benefits for State and Local Government Employees

Cost-of-Living Increases for State and Local Government Retirees. S.L. 1998-153 (S 879), enacted September 24, 1998, grants a 2.5 percent cost-of-living increase for most retirees covered by the Teachers’ and State Employees’ Retirement System (TSERS), the Local Governmental Employees’ Retirement System (LGERS), and other state-administered retirement systems. Local government retirees who were receiving benefits on June 1, 1998, received an additional, noncompounded 0.6 percent cost-of-living increase. The cost-of-living increase for state and local government retirees was effective retroactively to July 1, 1998.

Increased Retirement Benefits for Local Government Employees. Retirement benefits for state and local government employees covered under TSERS and LGERS are calculated by multiplying an employee’s average final compensation times the number of years of creditable service times a “retirement formula multiplier.” For local government employees who are covered by LGERS and who retire on or after July 1, 1998, S.L. 1998-153 (S 879) increases the retirement formula multiplier to 1.77 percent. (The retirement formula multiplier for state government employees who are covered under TSERS and retire on or after July 1, 1997, remains 1.80 percent.)

Decreased Employer Contribution to TSERS. Effective July 1, 1998, S.L. 1998-153 (S 879) decreased the employer contribution rate to the Teachers’ and State Employees’ Retirement System (TSERS) for state fiscal year 1998–99 from 10.83 percent to 10.10 percent, resulting in a decrease of \$42.9 million in General Fund appropriations to TSERS.

Retirement Benefits for Teachers in Charter Schools. Section 9.14A of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), gives charter schools operated by private nonprofit corporations the option of participating in TSERS and, subject to certain restrictions, allows members of TSERS to purchase retirement credit with respect to their employment with a charter school that elected not to participate in TSERS.

Purchase of Retirement Credit. Effective July 1, 1998, S.L. 1998-71 (H 1522) allows a member of LGERS to purchase retirement credit for service previously rendered as a part-time teacher or as a part-time state government employee and allows a member of TSERS to purchase retirement credit for service previously rendered as a part-time local government employee. Effective July 1, 1998, S.L. 1998-190 (S 1138) allows members of TSERS to purchase retirement credit with respect to their probationary employment with a local government. Effective October 31, 1998, S.L. 1998-214 (H 1362) amends the TSERS and LGERS statutes to allow a covered employee or retiree to include service credits transferred to TSERS or LGERS under

G.S. 128-24 or G.S. 135-18.1 in determining whether the employee or retiree may purchase retirement credit based on his or her military service. The amendments made by S.L. 1998-214 apply to persons who retire on or after October 31, 1998.

Change of Death Benefit Designation by State and Local Government Retirees. In general, a state or local government employee who is covered under TSERS, LGERS, or other state-administered retirement systems may (1) elect to receive the full amount of his or her retirement benefits during his or her lifetime or (2) choose to receive a reduced retirement benefit during his or her lifetime and, after his or her death, allow a designated beneficiary to receive all or part of his or her retirement benefit during the beneficiary's lifetime. Employees who choose the second option generally may not revoke their choice or change their designated beneficiary after they begin receiving retirement benefits.

Section 28.26 of the 1998 Appropriations Act, S.L. 1998-212 (S 1366), amends the statutes governing TSERS, LGERS, and other state-administered retirement systems to allow a state or local government retiree to change the person who has been designated to receive all or part of the retiree's retirement benefits after the retiree's death if (1) the retiree has designated his or her spouse as the beneficiary, (2) the retiree's spouse predeceases the retiree after the retiree has begun receiving retirement benefits, (3) the retiree remarries, and (4) the retiree designates his or her new spouse as beneficiary within ninety days of their marriage.

Increased Retiree Death Benefit. The surviving spouses or legal representatives of deceased state and local government employees or retirees covered by TSERS, LGERS, and other state-administered retirement systems are eligible for death benefits if the employee or retiree participated in an optional group life insurance plan. Section 28.27 of S.L. 1998-212 increases from \$5,000 to \$6,000 the maximum death benefit paid under these group life insurance plans with respect to covered state or local government retirees who die on or after January 1, 1999.

Retirement Benefits for Retired Teachers Who Work as Substitute Teachers in Public Schools or Teachers in Low-Performing Public Schools. Section 28.24 of S.L. 1998-212 amends the TSERS statute to allow a retired teacher who receives retirement benefits under TSERS to work as a public school teacher without losing his or her TSERS retirement benefits. To qualify for this exception, the retired teacher must work as a part-time or interim substitute teacher in a public school, as a teacher in a low-performing public school (as defined in the new law), or as a teacher (within his or her area of certification) in a public school in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification. A retired teacher is considered a probationary teacher, is not eligible for career status, and may not be paid more than he or she would have received under the teacher salary schedule (excluding longevity) had he or she not retired.

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