

RETIREMENT SYSTEMS DIVISION

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August 1, 2018

TO: Department Staff

FM: Sam Watts

RE: Report on 2018 State Legislative Actions Affecting Retirement and Health Benefits

Executive Summary/Key Points

The N.C. legislature acted on 15 bills affecting the Retirement Systems or State Health Plan that were considered this session. Eight of those were enacted into law which granted 89 percent of the Department's requests.

EMPLOYER CONTRIBUTIONS AND FUNDING POLICY

- Fully funded all retirement systems per the Boards' recommendations
- Created the Solvency Fund to accumulate funds to address unfunded pension and health liabilities
- Changes to retirement appropriations consumed 24 percent of the state's spending increase this year

BENEFIT POLICY CHANGES

- Retirees in the state pension systems will receive a one percent one-time pension supplement payment
- Law enforcement officers were provided with a 25-year reduced benefit retirement payment option
- Public safety line of duty death benefit is doubled to \$100,000 and expanded to include more workers

ADMINISTRATION OF SYSTEMS AND PREVENTION/DETECTION OF FRAUD, WASTE, AND ABUSE

- Provided new methods for recovery for funds owed to the Retirement System and Health Plan
- Changed the state personnel law to provide more flexibility to classify and compensate employees

INVESTMENT POLICY

- Clarified divestment laws for the Department's new internally-managed investment strategies

The Session and Retirement and State Health Plan Legislation

The 2018 "short session" of the North Carolina General Assembly (General Assembly) was a reconvened "regular session" which began on May 16, 2018 and adjourned on June 29, 2018 *to a date certain*. The adjournment resolution (HJR 1101, Res 2018-10) specifies that the legislature will reconvene the regular session again on November 27, 2018. As such, legislation that was eligible during the short session, but has not received a final disposition may still be taken up during the reconvened session. No provisions were made in the adjournment resolution for introduction of new bills but topics to be addressed during the session are not limited.

During the short session, the legislature was convened for 45 calendar days, with the Senate meeting on 28 of those days and the House on 30 days. During that period of time, 175 new House bills or resolutions and 109 new Senate bills or resolutions were introduced, for a total of 284 introductions. During the session, the legislature acted on 394 different bills or resolutions.

To date, 143 bills or resolutions have been enacted or adopted, and two are pending an override vote by the General Assembly. Ten bills were vetoed by Governor Roy Cooper and eight of the vetoes were overridden. The Governor signed 66 bills, 11 became law without his signature, and an additional 58 bills and resolutions did not require his signature.

During this session, the General Assembly considered 15 bills with public policy implications for the Retirement System and the State Health Plan. Of those 15 bills that received a hearing in at least one of the pension committees or other action by the General Assembly during the short session, eight were ratified and signed into law and seven were not:

BILLS HEARD IN PENSION COMMITTEES AND ULTIMATELY ENACTED IN 2018*

HB 9	Allow Election Day Service – Retired LEOs
HB 284	25-Year LEO Retirement Option
HB 514	Permit Municipal Charter School/Certain Towns
HB 651	State Pension/Retiree Health Benefit Fund Solvency“-AB”
HB 977	Admin. Changes Ret. System/Treasurer - 2018-AB
HB 985	Retirement Technical Corrections Act of 2018-AB
HB 1056	Financial Accountability, Integrity, and Recovery Act (FAIR 2018)-AB
SB 99	Appropriations Act of 2018 (As amended by SB 335 and HB 948)

-AB denotes bill was requested by a state agency. (HB 651 not designated an –AB, but was one for all practical purposes)

PENSION BILLS ACTED ON BY GENERAL ASSEMBLY IN 2018 AND ULTIMATELY NOT ENACTED

HB 273	Charter Schools in the State Health Plan
HB 340	Special Separation Allowance Firefighters/Rescue Squad Workers#
HB 935	Add Piedmont Community Charter School to SHP
HB 966	Increase and Expand Public Safety Death Benefit@
HB 1055	Retirement Complexity Reduction Act of 2018.-AB
SB 117	Forfeiture Retirement Benefits/Anti-Pension Spiking
SB 153	Military Retiree State Income Tax Relief (FF/RSW Special Sep. Allowance)#

** N.C.G.S. 120-111.3 requires that “every bill, which creates or modifies any provision for the retirement of public officers or public employees or for the payment of retirement benefits or of pensions to public officers or public employees, shall, upon introduction in either house of the General Assembly, be referred to the Committee on Pensions and Retirement of each house.”*

*# HB 340 was briefly discussed in the Senate Rules Committee in 2018, but not acted on by the committee. Subsequently, the content of the bill was added by House Finance Committee as a new section in SB 153.
@ HB 966 was included as a section of SB 99.*

The Department originally requested that 43 policy bill provisions for the Retirement Systems Division and the State Health Plan be included in legislation considered by the General Assembly this session. Of those original 43 provisions, 37 were enacted by the General Assembly, primarily as portions of HB 651, HB 977, HB 985, and HB 1056. Additionally, 11 retirement provisions enacted in HB 9, HB 284, and SB 99 were developed or re-shaped during the session in collaboration with the committee chairs and bill sponsors. Consequently, 89 percent of the Department’s recommended 54 policy changes became law. Comparatively, an estimated 23 percent of introduced bills during the session were passed.

State Budget & Appropriations

Since modifications to the \$23.7 billion State Budget Act is the central purpose of the “short session,” the Retirement Division closely monitors budget legislation. Each year, the Division’s first and foremost public policy objective is to obtain full funding for the actuarially determined employer contributions (“ADECs,” formerly “ARCs”) for all of the pension plans administered by the Division. That goal was achieved for all the pension plans in SB 99, the Appropriations Act of 2018.

The changes made in the Appropriations Act of 2018 added \$202.5 million to the state budget, bringing the total dollars involved up to \$23.9 billion. Increased employer contributions to the Retirement Systems accounted for \$48.6 million of the total additional planned spending of \$202.5 million. In other words, the changes to the retirement appropriation consumed 24 percent of the net spending increase for the year.

- Appropriations Act of 2018 (Senate Bill 99/Session Law 2018-5): fully funds the Actuarially Determined Contributions for all the Retirement Systems and has several other sections affecting the Department.

PENSION AND HEALTH CARE FUNDING PROVISIONS

- Sections 2.1, 21, and 35.27: Mandated Employer Contributions & State Appropriations
Appropriates state pension fund employer contributions, National Guard, and Firefighters' and Rescue Squad Workers' state contributions for the 2019 Fiscal Year.

	2018-2019
PENSION ADEC FUNDING/SHP PREMIUMS	
Teachers' & State Employees' Retirement System*	\$1,911,891,269
State Health Plan Employer Premiums for Non-Retired Members**	\$1,934,234,215
Retiree Health Benefit Trust/Retiree Medical*	\$1,096,255,766
Consolidated Judicial Retirement System*	\$26,183,704
Legislative Retirement System*	\$835,206
Disability Income Plan of N.C.*	\$24,275,182
State Employee Death Benefit Plan*	\$24,859,065
National Guard Pension Fund*** (Increased by \$406,080)	\$9,071,933
Firefighters & Rescue Squad Worker's Pension Fund*** (Increased by \$350,000 each year per Board's SCRSP policy)	\$18,302,208
Line of Duty Death Benefits*** (Increased by \$2,250,000 because of benefit changes in Section 35.29.)	\$3,236,500
*Projected funding based on appropriated contribution rate and projected payroll **Projected funding based on appropriated contribution rate and actual enrollment. If the appropriated rate were applied to the number of budgeted positions, adding filled local and federally-funded positions at local school systems, this figure would be \$2,143,883,504. ***Total appropriation	

- Section 35.27: Mandated Employer Contribution Rates for Retirement, Health, & Related Benefits
Modifies Section 35.19 of Session Law 2017-57. Provides guidance to the Division with regard to contribution rates to charge to agencies participating in the state's retirement systems as employers

Employer Contribution Rates for Retirement, Health, and Related Benefits

Rates effective July 1, 2018 through June 30, 2019

S.L. 2018-5 Section 35.27, (Modifying Section 35.19 of S.L. 2017-57)

FISCAL YEAR 2019	Total Rate	Breakdown of Rate Type					
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement^	Qualified Excess Benefit
TSERS General	18.86%	12.28%	6.27%	0.14%	0.16%		0.01%
TSERS Law Enforcement	23.86%	12.28%	6.27%	0.14%	0.16%	5.00%	0.01%
UNC ORP	13.25%	6.84%	6.27%	0.14%			
Com. Coll. ORP*	13.25%	6.84%	6.27%	0.14%			
CJRS	40.13%	33.86%	6.27%				
Legislative Retirement System	28.67%	22.40%	6.27%				

^The "Supplemental Retirement" contributions for State Law Enforcement Officers are paid to Prudential for the NC 401(k) Plan.

*The Community College ORP is closed to new hires after July 1, 2018 and there are no current employees participating.

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- Section 36.19 of S.L. 2017-57 (unmodified by S.L. 2018-5) – Maximum annual employer contributions to the State Health Plan Sets the maximum annual amount per employee or retiree payable to the State Health Plan for Teachers and State Employees for fiscal years 2017 and 2018.

<i>State Health Plan</i>		Jul-Dec	Jan - Jun		Jul-Dec	Jan - Jun
<u>Employer Premiums</u>	<u>2017-2018</u>	<u>Monthly</u>	<u>Monthly*</u>		<u>Monthly*</u>	<u>Monthly*</u>
Medicare Eligible	\$4,560	\$372.56	\$387.44		\$4,743	\$387.44
Non-Medicare Eligible	\$5,869	\$479.48	\$498.69		\$6,104	\$498.69

*Monthly amounts are estimates developed by the Department staff based on annual maximum amounts and may be slightly different than what is eventually adopted by the State Health Plan Board of Trustees. Since the maximum rates were unchanged by the General Assembly in 2018, the last maximum set by the legislature in S.L. 2017-57 applies.

PENSION AND HEALTH CARE BENEFIT POLICY PROVISIONS

- Section 35.28(a)-(c) – One-Time Pension Supplement for TSERS/CJRS/LRS Retirees: Provides for a payment of a one-time pension supplement in the amount of 1.0% of annualized benefit in effect on September 1, 2018 to be paid on or before October 31, 2018 to retirees in affected systems. Unlike a traditional COLA, this does not change the ongoing monthly benefit and, absent additional action by the General Assembly, the payment will not recur in future years. The new law specifically states, “No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments.”
 - Section 35.28(d): Provides that in order to administer the one-time cost-of-living supplement for retirees, the Retirement Systems Division may increase receipts from the retirement assets of the corresponding retirement system or pay costs associated with the administration of the payment directly from the retirement assets.
- Section 35.29: Increase and Expand Line of Duty Death Benefit for Public Safety Workers Increases the line-of-duty death benefit from \$50,000 to \$100,000 and extends coverage to noncustodial employees of the Division of Adult Correction and Juvenile Justice killed by inmates, retroactive to April 1, 2017. The survivors of all participants who died on or after that date who received the \$50,000 line-of-duty death benefit are to be awarded an additional \$50,000. Two additional employees[^] who died in the line of duty and did not receive the \$50,000 would likely be eligible contingent on a determination of the death being in the line of duty by the Industrial Commission.

[^]The two known deceased employees whose estates or beneficiaries are newly eligible to receive \$100,000 are: Veronica Darden (d.2017), and Geoffrey Howe (d.2017).
- Section 35.26: Special Annual Leave Bonus
Any person who is (1) a full-time, permanent employee of the state or a community college on July 1, 2018, and (2) eligible to earn annual leave will have a one-time additional five days of annual leave credited on July 1, 2018.
 - The additional leave granted in this act will be accounted for separately with the leave provided by Section 28.3A of S.L. 2002-126; Section 30.12B(a) of S.L. 2003-284; Section 29.14A of S.L. 2005-276; Section 35.10A of S.L. 2014-100; and Section 35.18A of S.L. 2017-57.
 - The leave will remain available during the length of the employee's employment, notwithstanding any other limitation on the total number of days of annual leave that may

be carried forward. Part-time, permanent employees shall receive a pro rata amount of the five days.

- The additional leave awarded under this section has no cash value and is not eligible for cash in. If not used prior to the time of separation or retirement, the bonus leave cannot be paid out and is lost.
- Any vacation leave remaining on December 31 of each year in excess of 30 days will be reduced by the number of days awarded in this section that were actually used by the employee during the year such that the calculation of vacation leave days that would convert to sick leave will reflect a deduction of those days of special annual leave awarded in this section that were used by the employee during the year.

PERSONNEL POLICY PROVISIONS AFFECTING ADMINISTRATION OF THE DEPARTMENT

- Section 35.19: Exempt Employee Changes for Council of State Agencies
Amends 126-5 to provide that each Council of State agency will have the sole authority to set the salary of its exempt policymaking and exempt managerial positions within the minimum rates, and the maximum rates plus ten percent (10%), established by the State Human Resources Commission under G.S. 126-4(2).
- Section 26A.2: Temporary Employment at Council of State and Cabinet Agencies
Requires Cabinet agencies to use OSHR's Temporary Solutions Agency, but allows Council of State agencies the discretion to make alternative arrangements for temporary labor force needs that do not involve information technology projects. Requires agencies to record the time worked by each temporary employee in the agency, including the number of hours worked per week, number of months worked, and the amount of time the employee was not employed after 11 consecutive months of service with the agency. To the extent possible for temporary employees, agencies are required to use BEACON, or the state payroll system that supersedes BEACON, for payroll purposes. If it is not feasible for an agency to use BEACON, or the superseding system for payroll purposes, the agency will report the information required by the new law to the Office of State Human Resources in accordance with guidelines and requirements established by the Director of Temporary Solutions.
- Section 35.19A: Classification and Compensation Amendments and Flexibility Pilot Program
Subsection (a) of this provision provides that during the 2018-2019 fiscal year the Council of State agencies, the Office of State Controller, the Community College System Office, and The University of North Carolina are granted sole authority and discretion to take the following actions concerning classification and salary administration of their respective personnel:
 - Classify new positions or reclassify vacant positions within the classification system adopted by the State Human Resources Commission or as otherwise prescribed by law.
 - Make hiring decisions based on the flexibility provided under this section.
 - Determine the appropriate salary for their respective employees, provided that funding is available within the budgeted salary appropriated to the agency and the salary remains within the minimum and maximum of the salary range associated with the position classification or as otherwise provided by law.

The Human Resources Director for each state agency will ensure that each new hire employed pursuant to the classification and salary administration flexibility granted by this section meets the minimum qualifications for the position. The Office of State Human Resources will provide assistance to agencies upon request.

- Subsection (b) provides that the deadline is extended, through June 30, 2019, for the state agencies identified in subsection (a) of this section to submit all post-implementation studies, including all supporting documentation, to the Office of State Human Resources.

- Subsection (c) provides that by March 1, 2019, the state entities granted classification and salary administration flexibility under this section will report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the following:
 - The number of classification actions taken under this section.
 - The number of salary adjustments made under this section and total additional salary funds awarded.
 - A comparison of the number of agency employees recruited from and the number of agency employees hired by cabinet agencies.
 - Impact of the classification and salary administration flexibility on agency operations, including, but not limited to:
 - Hiring time line.
 - Recruitment of candidates.
 - Retention of key personnel.
 - Any remaining position classification disagreements with the Office of State Human Resources.
 - Whether the program should be extended and any recommended adjustments to the program.

(This provision was enacted in Section 8.3 of S.L. 2018-97 as an amendment to S.L. 2018-5).

OTHER PROVISIONS AFFECTING THE DEPARTMENT OF STATE TREASURER

- Section 21.1: Require Reports on Building Inspection Fees to the Local Government Commission
Requires that the finance officer of each city and county to report the total revenues received from building inspections, by type, and the total expenditures paid from all revenues received, by type to the Local Government Commission (LGC). Requires the LGC to incorporate this information into information technology projects to assist local governments in accounting and financial management the one or more line items on which each city and county will report the total revenue received from building inspections and the total expenditures paid from the revenue received. (S.L. 2018-29, Section 4.5.(a) added a clarification that the section becomes effective on June 30, 2019.)
- Section 21.2: Additional Escheat Funds for Veteran's Administration Scholarships
Requires a transfer of \$2.4 million from the Escheats Fund in nonrecurring funds to be used for scholarships for the children of veterans by the Department of Military and Veterans Affairs. This nonrecurring appropriation is in addition to the current recurring appropriation of \$6.5 million and is in excess of the targets set for transfers of monies from the Escheat Fund principal for scholarships. (This provision was enacted in Section 6.4 of S.L. 2018-97 as an amendment to S.L. 2018-5).
- Section 38.1(h): ABLE Federal Conforming Change
Conforms state law to change in federal tax reform provision allowing rollovers from 529 college savings accounts to 529A ABLE accounts, preserving tax exclusions already granted to the holders of the 529 accounts.

Policy legislation passed in 2018:

- State Pension/Retiree Health Benefit Fund Solvency “– AB” (House Bill 651/Session Law 2018-30):
The provision establishes the “Unfunded Liability Solvency Reserve” as a reserve within the General Fund that will be used to accumulate funds during the fiscal year to be used to reduce the state’s unfunded pension and other post-employment benefit (OPEB) liabilities during the next fiscal year.

Funds in the reserve may only be used to reduce the long-term unfunded liabilities associated with the Retiree Health Benefit Trust and the Teachers' and State Employees' Retirement System. Each of the two benefit programs will receive an annual share of the reserve funds that is proportionate to the unfunded liability of the programs. Funds from the reserve may not be used to supplant other funding for the benefit programs and may not be used to enhance the benefits provided by the programs.

The reserve has two sources of funds:

- (1) Any funds appropriated by the General Assembly for this purpose and
- (2) Rainy Day Fund “overflows” once the State’s Rainy Day Fund meets its statutory cap which include:
 - (a) any savings from the refinancing of general obligation bonds or special indebtedness and
 - (b) an amount equal to a maximum of 15 percent of the previous year’s estimated growth in state tax revenues.
- Financial Accountability, Integrity, and Recovery Act (FAIR – AB) (House Bill 1056/Session Law 2018-52): has ten sections affecting the Department. Except as otherwise described in Sections 3, 5, 7, 8 and 10 this act was effective when it became law, which occurred on June 25, 2018.
 - Section 1: Name and Proper Citation of the Act
The section does not contain any public policy changes.
 - Section 2: Expand Garnishment of Wages of State & Local Government Employees to Recover SHP/RSD Claims & Overpayments
Creates new 135-48.37A. Amends 135-9 and 128-31. Garnishment of wages of state and local government employees was allowed under law before the passage of this bill, but employing agencies could choose not to allow the garnishment. This provision would require agencies to garnish wages of employees if monies are owed to the State Health Plan or the Retirement Systems Division.

Specifically, subsection 2(a) amends the State Health Plan (SHP) statutes, to add a new section pertaining to employing units cooperating in the collection of amounts owed to the Plan. It requires any overpayment or erroneous payment of benefits or other amount to, or premiums or claims paid on behalf of, any Plan member to be repaid by the Plan member to the Plan. If the Plan member is an employee of an employing unit on the plan, amounts to be recouped must be offset against the net wages of the Plan member. If a Plan member has been notified of the amount owed and has not entered into a payment plan within 30 days after the written notice, the Plan will notify the Plan member's employer of the amount owed and the employing unit is required to offset the amount owed against not less than ten percent (10%) of the net wages of the Plan member until the amount owed has been paid in full. If an employing unit fails to adhere to these requirements, after notice to the employing unit of its failure to cooperate, the Plan is entitled to seek recovery of any amounts due directly from the employing unit. The section further provides that no amount due may be forgiven and the Plan and the employing unit have a duty to pursue the repayment in full of these funds by all lawful means available, including the filing of a civil action in the General Court of Justice.

Subsections 2(b) and (c) amend the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS) statutes in a manner similar to subsection 2(a) to require that if a member or beneficiary who is employed by a system employer receives an overpayment or an erroneous payment, the Retirement System will notify the employer, and the amount owed will be offset from net wages and paid. Unlike the State Health Plan garnishment section in 2(a), the Retirement System isn't held to a 30 day clock between notification of the employee and the employer.

Subsection 2(d) provides that this section is effective when it becomes law. Section 2(a) applies to all amounts owed by a Plan member for which notice is sent on and after that date, regardless of the date the benefit, claim, or premium amount which the Plan member was ineligible, the overpayment or the erroneous payment was made. Sections 2(b) and (c) apply to all amounts owed by a member or beneficiary to the retirement system for which the notice is sent on and after that date, regardless of the date the overpayment of benefits or erroneous payment was made.

- Section 3: Increase Subrogation Rights for SHP Vendors Involved in Collections of Fraudulent Claims
Amends 135-48.37. This section enhances the State Health Plan's rights when a Plan member recovers any amounts from a liable third party to which the Plan is entitled and prior to the Plan exercising its right off recovery, the Plan member uses or disposes of the recovered amounts. In these circumstances, the Plan may pursue alternative judicial remedies, including a judgment and lien against real property.
- Section 4: Interception of Credit Card Receipts from SHP Providers/RSD Employers for Funds Owed
Creates new 1-359(c) & (d). The new law provides that when the State Health Plan prevails in a civil action against a provider to collect an overpayment, the Plan may attach or garnish the provider's credit card receipts or other third party payments in payment of the amount owed in the manner provided. Further, in addition to the intercept authority under G.S. 135-8(f) and G.S. 128-30(g), when TSERS, DIPNC, or LGERS prevails in a civil action against a participating employer to collect monies owed, the Retirement Systems Division may attach or garnish the employer's credit card receipts or other third party payments.
- Section 5: Place Liens on Real Property for Funds Owed to SHP
Creates a new 135-48.37 and amends 44-49(a); 44-50; and 44-51 to clarify the priority and calculation of the State Health Plan's lien.

Section 5(a) amends the statutory section for the State Health Plan that pertains to liability of third person; right of subrogation; right of first recovery to add a new subsection providing that the priority of any lien held by the State Health Plan is superior to all nongovernmental liens and rights, whether such liens and rights are prior or subsequent to the lien. Sections 5(b), (c) and (d) amend Chapter 44, Article 9 Liens upon Recoveries for Personal Injuries to Secure Sums Due for Medical Attention, etc. Section 5(b) amends G.S. 44-49 to provide that the priority of a lien held by the State Health Plan is superior to all nongovernmental liens and rights, whether such liens and rights are prior or subsequent to the lien. Section 5(c) makes a similar amendment to G.S. 44-50. Section 5(d) amends G.S. 44-51 to provide that the statutory section pertaining to disputed claims to be settled before payments does not apply to amounts owed to the State Health plan for past-due account receivables related to claims payments. Section 5(e) provides that this section is effective when it becomes law. Priority of the State Health Plan's lien over nongovernmental liens and rights created under the section applies only to nongovernmental liens and rights that have attached to the applicable property on or after the effective date of the act.

- Section 6: Felony Forfeiture/Prohibit Re-purchase of Service
Creates new 135-18.10B; 128-38.4B; 135-75.1B; 120-4.33B; and 58-86-101 to prohibit re-purchase of retirement creditable service or benefits that have been forfeited due to a felony conviction.
- Section 7: Eliminate ORP Reciprocity with TSERS/New Hires
Amends 135-4.1 to prohibit use of service rendered while participating in the University Optional Retirement Program (ORP) toward determining benefit eligibility for TSERS. This change applies to members first hired on or after January 1, 2021. TSERS currently receives no additional funds from the University to cover the cost to the Retirement System to provide this benefit.

- Section 8: Restrict Settlement Agreements involving SHP
Creates new 135-48.46 which requires settlement agreements that affect the State Health Plan be approved by the Executive Administrator of the Plan. This section also restricts employing units from reinstating health benefit coverage for more than one year prior to the date of a settlement agreement. Any settlement agreement provision in violation of the section shall be void ab initio.
- Section 9: CBBC: Multiple Employer Anti-Pension Spiking CBBC Liability
Amends 135-8(f)(2)f. and 128-30(g)(2)b. to clarify treatment of CBBC liabilities generated when a member has multiple simultaneous final employers. The change specifies that the CBBC liability applies only if it is generated because of a member's service to one employer at a time or when the average final compensation (AFC) earned by the member attributable one of the member's employers exceeds the CBBC AFC thresholds
- Section 10: Disability Changes

Synchronize Short-Term Disability Filing Period with Long-Term Filing Period
Amends 135-105. The provision limits the time period for application for DIPNC short-term disability to no longer than one year after the beginning of the waiting period.

Employers Pay for Entire Short Term Disability Period
Amends 135-105 to eliminate employer reimbursements. Currently, during the second six months of DIPNC short-term disability, employers are reimbursed for the cost of providing the benefit from the disability plan trust. This change would halt reimbursements of employers for the second six months of short-term disability for short-term disability benefits that begin on or after July 1, 2019. The actuarial note filed with the legislation estimated that it may be possible to reduce employer contributions to DIPNC beginning in FY 2020 to adjust for the elimination of the reimbursements.
- Admin. Changes Ret. System/Treasurer – 2018 – AB (House Bill 977 Session Law 2018-84):
has eleven sections affecting the Division. Except as otherwise described in sections one, two and three this act was effective when it became law, which occurred on June 26, 2018.
 - Section 1: Close Optional Retirement Program for Community College Presidents
Amends 135-5.4 to close the Optional Retirement Program for Community College Presidents (CC ORP) to newly hired Presidents after June 30, 2018. Presidents hired after that date will participate in the Teachers' and State Employees' Retirement System (TSERS) and will not be allowed to choose the CC ORP. The CC ORP has four members and none are currently serving as community college presidents. Due to the low participation rate, the program had difficulty achieving sufficient economies of scale to provide attractive investment options for members. Consequently, it is being closed to reduce administrative burden on the Community College System. This closure was endorsed by the community college presidents and the State Board of Community Colleges.
 - Section 2: Felony Forfeiture Modifications
Amends 135-18.10; 128-38.4; 161-50.4, and 161-50.5. Adds convictions on state charges of embezzlement to the enumerated list of reasons that an elected official's TSERS or Local Governmental Employees' Retirement System (LGERS) pension could be forfeited. Further provides that if any portion of a Register of Deeds' LGERS benefit is forfeited, then that member's entire Register of Deeds Supplemental Pension benefit is also forfeited.
 - Section 3: Withdrawal Liability Payment Plans/Charter Schools
Amends 135-5.3(f) to allow for payments on withdrawal liabilities for charter schools. When a charter school withdraws from the Retirement System under G.S. 135-8(i), the school must bear the full cost of future investment risk to the Retirement Systems to pay for service earned by

school employees while the school participated in the Retirement Systems rather than leaving that risk to be reallocated to all other employing agencies. This new provision allows for payment plans to satisfy withdrawal liabilities with the following provisos:

- Retirement Systems Board of Trustees must approve payment plans;
 - as of the date of Retirement Systems' Board action, employees of the agency would no longer earn retirement service credit;
 - payment plans would be available only if a withdrawal liability exceeds \$2 million;
 - 50 percent of the withdrawal liability as calculated under G.S. 135-8(i) must be paid up front;
 - the agency may make no more than 36 equal monthly payments of the remaining amount;
 - the Retirement System will put a lien on real property owned by the school in the event that the school fails to pay; and
 - the Retirement System will use existing law allowing interception of public school allotments if the school fails to pay and is still receiving funds from the state.
- Section 4: Conform Passive Index Strategies Definition in Iran & Sudan Divestment Acts
Amends 147-86.57(3) and 147-86.42(5a) to clarify that the Department's new internally-managed index strategy is consistent with the Iran and Sudan Divestment Acts.
 - Section 5: SRP Fee Clarification
Creates new 143B-426.24(h2) and 115C-341.2(c) to clarify that the fee-setting authority granted to the Board of Trustees of the Supplemental Retirement Plans extends to all plans and programs under the purview of the Board. This is a standing interpretation of current statutes that is being codified for additional transparency.
 - Section 6: LGC/NCCFFA Board Liability Protection
Creates new 159-3(g) and 159D-38(f) to provide personal immunity from civil liabilities for decisions made by members of the Local Government Commission (LGC) and the Board of Directors of the North Carolina Capital Facilities Finance Agency (NCCFFA) for actions taken in their official capacity.
 - Section 7: Federal Law Compliance Provision
Creates new 135-48.48.4, which explicitly allows for preemption of state law to comply with provisions of the federal law, to the extent of any conflict.
 - Section 8: Eliminate Statutory Requirement to Have Deputy Executive Administrator of SHP
Amends 135-48.23; 126-5(c1)(23) to eliminate a statutory requirement that the State Health Plan (SHP) have a deputy executive administrator. This requirement predated the inclusion of the Plan within the Department of State Treasurer and was no longer necessary.
 - Section 9: SHP Board Qualifications
Amends 135-48.20(j) to adjust qualification statutes for the State Health Plan Board of Trustees to include a requirement that one member be a medical doctor and that one member must have a background in actuarial science or health economics.
 - Section 10: NC Health Information Exchange Advisory Board/Add Executive Administrator of SHP as Ex Officio Voting Member
Amends 90-414.8 to add the executive administrator of the State Health Plan as an ex-officio voting member on the NC Health Information Exchange Advisory Board.
 - Section 11: Revise Entry Procedure to the State Health Plan for Charter Schools
Amends 135-48.54. Prior to this change, new charter schools had to decide whether to opt into the State Health Plan within 30 days of receiving a charter from the State Board of Education. This legislation changes the 30-day entry window to two years for all newly created charter schools. The legislation further provides for a non-binding six-month notification to SHP from

charter schools for planning purposes. Additionally, under current law, any existing charter school that missed its original 30-day window needed to request special legislation to join the SHP. In order to rectify this situation, this new provision also provides a two-year window for all existing nonprofit charter schools who have not opted into the State Health Plan to join.

- Retirement Technical Corrections Act of 2018-AB (House Bill 985/Session Law 2018-85): has 14 sections affecting the Division. All sections of this act were effective when it became law, which occurred on July 25, 2018.
 - Section 1: Clarify that 135-108 includes Extended Short-Term Disability/Excludes Regular Short-Term Disability
Amends 135-105 to clarify that governance of post-disability benefit adjustments under 135-108 for recipients of extended short-term disability under the Disability Income Plan of North Carolina (DIPNC) is the responsibility of the Teachers and State Employees' Retirement System (TSERS) Board. This is a standing interpretation of current statutes that is being codified for additional transparency. It affects fewer than 200 people per year.
 - Section 2: Conform Statement of Income Requirements in LGERS Disability to DIPNC
Amends 128-27(e)(4) to conform Statement of Income deadline requirements in LGERS to DIPNC requirements enacted in 2016 to facilitate parallel administration of both programs. This change would provide an administrative efficiency by not requiring submission of forms using different deadlines.
 - Section 3: Clarify Treatment of Military Service Purchase/CBBC
Amends 135-5(a3) and 128-27(a3) to clarify that purchased military service is treated as creditable service rather than membership service for purposes of calculating an anti-pension spiking contribution-based benefit cap (CBBC) liability. This clarification ensures that purchased military service is treated like all other service purchases in the Retirement Systems and, consequently, does not negatively impact the member or the member's employer under the anti-pension spiking law. The Consumer Price Index period specified in the statute is also amended from December to June.
 - Section 4: Clarify Separation of Service Requirement for CJRS Members Returning to Work in the ORP
Amends 135-53(16) to specify that the same standard separation of service provision used for the Consolidated Judicial Retirement System (CJRS) applies when a retired judicial branch member is re-employed in an Optional Retirement Plan-eligible position. This treatment is the same as it would be if the member were re-employed in a TSERS-eligible position.
 - Section 5: Remove Archaic Legislative Service Purchase Provision
Amends 120-4.14 to remove an archaic service purchase provision from the Legislative Retirement System (LRS) that applied only to members serving in the General Assembly prior to 1975. The Department believes no living persons are eligible for this provision.
 - Section 6: Update State Health Plan Reporting Requirement
Amends 135-48.23, a State Health Plan quarterly reporting requirement, to eliminate the separate financial reporting dating from the time period when the Plan was an independent agency. Legislative staff agreed report was no longer useful.
 - Section 7: Remove Archaic Prior Service Provision
Amends 135-4(c) to remove an archaic service purchase provision from TSERS that applied only to members working for state or local government prior to 1941. The Department believes no living persons are eligible for this provision.

- Section 8: Fix Typo in LGERS/TSERS Public Records Law
Amends 135-6.1(e) and 128-33.1(e) to incorporate references in both LGERS and TSERS public records laws to include records regarding “state employees” and “local government employees” since many individuals have rendered service to both systems.
- Section 9: Clarify FRSWPF Line-of-Duty Survivor Benefit
Amends 58-86 to clarify that a line-of-duty survivor benefit in the Firefighters’ and Rescue Squad Workers’ Pension Fund (FRSWPF) cannot be paid if a refund has been paid.
- Section 10: Clarify that Board Members are not Employees for Retirement Purposes
Amends 135-1(20) to clarify that members of Boards and Commissions are not considered employees for retirement purposes. As a result of this change the TSERS definition of “retirement” says that the following will not be considered as service or work:
 - Serving as an unpaid bona fide volunteer in a local school administrative unit.
 - Serving as an unpaid bona fide volunteer guardian ad litem in the guardian ad litem program.
 - Serving on an authority, board, commission, committee, council, or other body of the state or of one or more counties, cities, local school administrative units, community colleges, constituent institutions of the University of North Carolina, or other political subdivisions or public corporations in the state, that is authorized to function as legislative, policy making, quasi-judicial, administrative, or advisory body in a position that does not require membership in the Retirement Systems.
 - Volunteering in a position normally designated as an unpaid bona fide volunteer position.
- Section 11: Eliminate Report that is No Longer Needed
Amends 135-5(m2) and 128-27(m2) to eliminate annual report to the General Assembly on the transfer benefit. Legislative staff agreed report is no longer useful.
- Section 12: Fix Typo in LGERS Board of Trustees Rule Making Statute
Amends 128-28(g) to correct reference from Chapter to Article of the statutes.
- Section 13: Fix Typo in LGERS Anti-Pension Spiking Law
Amends 128-30(j) to correct statute reference.
- Section 14: Fix Typo in TSERS Anti-Pension Spiking Law
Amends 135-4(jj) to correct statute reference.
- 25-Year LEO Retirement Option (House Bill 284/Session Law 2018-22):
the new law makes the following changes: 1) allows separation buyouts for law enforcement officers, effective June 22, 2018; 2) permits transfers under the special retirement allowance in the Teachers’ and State Employees’ Retirement System (TSERS) and the Local Governmental Employees’ Retirement System (LGERS) to be paid in whole or in part with employer contributions, effective July 1, 2019; 3) allows law enforcement officers with 25 years of creditable service who are members of TSERS or LGERS to retire with reduced benefits, effective July 1, 2019; and 4) effective June 22, 2018, allows the Retirement Systems Division of the Department of State Treasurer to use retirement assets to cover the costs associated with the administration of the changes in the act.
 - Section 1: Special Separation Allowance Buyouts
Amends Chapter 143, Article 12D to allow state agencies and local governments to offer separation buyouts to law enforcement officers (LEOs) who leave employment prior to reaching eligibility for the special separation allowance. The special separation allowance is a benefit under current law paid by the agency or local government between unreduced retirement and age 62. The buyout must be paid from funds available and must not exceed the total that would otherwise be paid under existing special separation allowance laws for state (G.S. 143-166.41) and local (G.S. 143-166.42) government employers.

- Section 2: Employers Pay Directly to Transfer Benefit
Amends 135-5(m2) and 128-27(m2) to allow the transfer benefit under both TSERS and LGERS to be funded with employer contributions paid directly to the Retirement System. Currently, the transfer benefit can be funded only with assets in an employee's qualified retirement account. The Transfer Benefit allows the member to establish a separate lifetime monthly benefit payment determined by using the amount transferred, yields on U.S. Treasury Bonds, and mortality tables based on actual experience.
- Section 3: New Eligibility for Reduced Benefit
Amends 135-5(a)(4); 135-5(b19); 135-5(m); 128-27(a)(5); 128-27(b21); 128-27(m) and creates new 135-5(b21); and 128-27(b22). Allows LEOs in TSERS and LGERS to retire with reduced benefits at any age with 25 years of service. If the retirement occurs prior to age 50, the benefit is reduced by the lesser of: a) 4 percent times [55 minus age at retirement] or b) 5 percent times [30 minus service at retirement] plus 4 percent times [50 minus age at retirement]. The bill does not change the law for retirement after age 50, as LEOS could already retire with a reduced benefit with only 15 years of service after age 50.
- Section 4: Funding for Implementation by the Retirement Systems Division
Authorizes the Retirement Systems Division of the Department of State Treasurer to use TSERS and LGERS assets to pay the costs of administering the changes in the bill. This is accomplished by specifying, "Notwithstanding any other provision of law to the contrary, in order to administer the changes to the special retirement allowance, as well as the change in creditable service required for law enforcement officers to retire with a reduced benefit, as provided for in Sections 2 and 3 of this act, the Retirement Systems Division of the Department of State Treasurer may increase receipts from the retirement assets of the corresponding retirement system or pay costs associated with the administration of these changes directly from the retirement assets."
- Allow Election Day Service - Retired LEOs. (House Bill 9/Session Law 2018-25):
amends G.S. 143-166.42 concerning special separation allowances for local law-enforcement officers (LEOs), making organizational and clarifying changes and also adding language that allows a retired law enforcement officer to be employed by county boards of elections in connection to Election Day service without suspending the retired officers' special separation allowance. Retired officers participating in this program would still be subject to separation of service laws and earnable allowance restrictions in TSERS and LGERS.
- Permit Municipal Charter School/Certain Towns. (House Bill 514/Session Law 2018-3):
The new law authorizes the Towns of Cornelius, Huntersville, Matthews and Mint Hill to apply for and hold a charter for a public charter school. The charter schools created under this are authorized to grant priority enrollment to students domiciled in those towns. The governing boards of the towns could serve as the board of directors for the school, or could appoint a board of directors to govern the school. Pursuant to S.L. 2018-5, the towns would be authorized to use property taxes in support of charter schools operated by the towns.

It is unclear whether employees of a charter school of the towns would be employees of that municipality and would be eligible for any employee benefits, including retirement benefits and health benefits, provided to other employees of that municipality. Earlier versions of this legislation envisioned that the charter school employees would participate in the Local Governmental Employees Retirement System (LGERS). The Department of State Treasurer provided technical assistance in the legislative process to amend the bill so that the employees would be treated the same as other employees of charter schools for purposes of eligibility for state-managed benefits. The bill was later amended to remove the guidance on employee benefits.

Please note that some parts of this report are extracted almost verbatim from publicly available documents created by my colleagues at the Department and from the work of legislative staff members. It is not intended to be presented as entirely original work as it is merely a compilation for convenience for users of this document.