



## 2018 Enacted Laws Affecting Public Schools

The following is the North Carolina Association of School Administrators' summary of the major law changes the 2018 General Assembly approved to affect the funding and operations of public schools. The legislation is listed in numeric order in the Table of Contents and by subject matter on the pages that follow. To view the full text of the enacted law, press control and click on the blue bill number listed with each summary.

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## **Appropriations/Budget**

### **S99, (Session Law 2018-5), Appropriations Act of 2018**

- The Appropriations Act of 2018 is the 2018 state budget legislation, as amended by Senate Bill 335. Click [here](#) to view a more detailed summary and links to the accompanying money report.
- Enacted June 12, 2018 and effective July 1, 2018 unless otherwise provided.

### **S335, (Session Law 2018-97) Budget Technical Corrections & Study**

- Amends the Appropriations Act of 2018, contained in Senate Bill 99, and includes the following changes affecting public education:
  - **Section 1.1:** Reduces the funding increase for public schools by \$190,000 for a net increase of \$59,657,276 in 2018-2019 over the year-two budget adopted in 2017.
  - **Section 2.1:** Adjusts the principal pay provisions to ensure that principals who have had a break in service, meaning they lack school growth scores from the last three years, will be

placed on the principal salary schedule based on the growth score from their most recent year(s) served as a principal.

- **Section 2.2:** Corrects a citation reference to the 2017 budget law in repealing the 2017-18 assistant principal salary schedule and replacing it with the 2018-19 schedule that reflects a 2% increase to 19% above teachers of the same years of service on the teacher “A” schedule.
  - **Section 2.3:** Clarifies that the \$25,000 appropriation to DPI for a grant to New Dimension Charter School is limited to the school’s operating expenses.
  - **Section 2.4:** Amends current laws governing the Center for Safer Schools to: 1) put the center under the Superintendent of Public Instruction instead of the Division of School Operations, 2) treats the center similarly to the Office of Charter Schools in its DPI reporting structure, and 3) makes conforming changes in the relevant statutes.
  - **Section 2.5:** Prohibits DPI from addressing its \$5.1 million reduction by transferring any funds from the Office of Charter Schools.
  - **Section 2.6:** Allows the State Board of Education to issue additional Requests for Proposals in order to select 10 school systems to participate in the Advanced Teaching Roles Pilot Program.
  - **Section 2.10:** Amends current laws to require DPI to only provide EVAAS K-3 reading diagnostic assessment data, rather than for other subject areas.
  - **Section 2.12:** Eliminates estate distributions from decedents in determining income eligibility for opportunity scholarships (private school vouchers) retroactive to Jan. 1, 2017.
  - **Section 2.13:** Allows DPI to use funds appropriate for Innovation Zone model grants for the administrative expenses of the Innovative School District for the 2018-19 year only.
  - **Section 2.14:** Provides a grant of \$10,000 to Graham County Schools.
  - **Section 2.15:** Eliminates the previous \$200,000 award to Donors Choose for classroom supplies for specific schools in the Charlotte-Mecklenburg Schools system.
  - **Section 2.16:** Requires for the 2017-18 school year only that the State Board of Education to combine the career and college readiness measures for school performance grades, so a high school would earn one point for each percent of students who are either college ready or career ready. School report cards for this year would be required to show the combined indicator, as well as what the indicators would look like separately.
  - **Section 7.4:** Removes budget language that had prohibited cities from conditioning zoning and permit approvals on the waiver or reduction of reimbursement for mandated road improvements related to school construction and renovations and makes this change retroactive to Aug. 1, 2017. *(Note: this prohibition was reinstated in House Bill 374.)*
  - **Section 11.1:** Broadens the previous provision authorizing municipalities to spend property tax funds on either traditional school or charter school operations, by also allowing property tax revenues to be used for school capital expenses inside the city limits.
- Effective July 1, 2018, except as otherwise provided.

## **Charter Schools**

### **H514 (Session Law 2018-3), Permitting Municipal Charter Schools in Certain Towns**

- Allows the Towns of Cornelius, Huntersville, Matthews, and Mint Hill to each apply for and hold a charter for a charter school.
- Permits those towns to act as the board for the charter schools or to appoint a board.
- Allows students domiciled in the municipality to be given preferential enrollment over other applicants.
- Enacted June 7, 2018 and effective that day.

## **Class Size and Other Education Changes**

### **H90, (Session Law 2018-2), Changes to Education and Election Laws**

- Provides that 11 school districts impacted by the Atlantic Coast Pipeline (ACP) are the sole recipients of \$57.8 million in funds subject to the Memorandum of Understanding between the State and the ACP. Distribution of the funding is to be determined by the LEA's ADM and the LEA's amount of ACP linear mileage. The affected LEAs include: Cumberland; Halifax: Roanoke Rapids and Weldon City; Johnston; Nash; Northampton; Robeson; Sampson: Clinton City; and Wilson. Effective January 25, 2018.
- Amends G.S. 115C-301 to phase in class size requirements for grades K-3 over a four-year period rather than the two-year period outlined in S.L. 2017-9. Exceptions to class size caps include dual language immersion classes and program enhancement classes, including arts disciplines of dance, music, theater, and the visual arts; physical education and health programs; world languages; and other supplemental classes as defined by the State Board of Education. Phase-in requirements place the following limits on student ratios in K-3 classes:
  - 2017-2018 and 2018-2019: average of 20, no more than 23.
  - 2019-2020: average of 19, no more than 22.
  - 2020-2021: average of 18, no more than 21.
  - 2021-2022 and beyond: The class size requirements will be as set forth in G.S. 115C-301. This will require for kindergarten, average of 18 and no more than 21; for first grade, average of 16 and no more than 19; and for second and third grade, average of 17 and no more than 20.
- Amends the current classroom teacher allotment within S.L. 1995-450 to define allotments for two groups of teachers: one allotment for K-5 enhancement teachers defined as those in the arts disciplines of dance, music, theater, and the visual arts; physical education and health programs; and world languages; and another allotment for all other teachers, including enhancement teachers in Grades 6-12. Also allocates state funding for the new program enhancement allotment beginning with \$61,359,225 for the 2018-2019 school year and designating annual increases until reaching a full funding level of roughly \$245.6 million in the 2021-2022 school year, to be determined by actual student enrollment. Allows that until July 1, 2021, the classroom teacher allotment may be used for any type of classroom teacher, including K-5 enhancement teachers, and after that date, funds for program enhancement teachers for grades K-5 will only be allotted

through the new program enhancement teacher allotment fund. Also effective in 2021, the K-5 enhancement teacher allotment funds may be used for supporting other teachers, but the funding in the separate classroom teacher allotment may no longer support K-5 enhancement teachers.

- Modifies the criteria for eligibility for Personal Education Savings Accounts (PESAs) to no longer require that the student had enrolled in a public school the prior semester, or had met one of the other criteria in lieu of that requirement, in order to be eligible to receive a PESA. Instead requires that the student meet the following five measures for eligibility to receive a PESA:
  - Resides in NC.
  - Has not yet received a high school diploma and is eligible to attend public high school in NC.
  - Has not enrolled in a postsecondary institution in a matriculated statutes eligible for 12 hours of academic credit.
  - Is a child with a disability.
  - Has not been placed in a nonpublic school or facility by a public agency at public expense.
- Establishes an appropriation for NC Pre-K and eliminates the current NC Pre-K waiting list by requiring that the Director of the Budget include funding for NC Pre-K in the base budget as follows: 2019-2020, \$82 million; and 2020-2021, \$91.4 million.
- Unrelated to education, Section 8 makes the following changes to G.S. 163A-2 that establishes the State Board of Elections and Ethics Enforcement: adds a ninth member, which the Governor appoints; states that the Governor must make all appointments to the State Board no later than 30 days after receiving list of nominees; and gives the Governor authority to remove members of the State Board at his or her discretion.
- Enacted March 16, 2018 and effective that date, except as otherwise provided.

## **Exceptional Children**

### **S768, (Session Law 2018-47) People First Language 2018**

- Follows the recommendation of the General Assembly's General Statutes Commission to use "People First" drafting to revise all applicable state laws to refer a person with a disability as a person first and not equating that person with his or her disability, and seeks to avoid derogatory language when describing a person's disability.
- Changes "mental retardation" to "intellectual disability" and "the mentally retarded" to "individuals with an intellectual disability" and makes similar changes in certain sections of the General Statutes.
- Makes other People First drafting changes and technical amendments in the affected sections.
- Enacted June 22, 2018 and effective that date, except as otherwise provided.

## **Facilities**

### **H852, (Session Law 2018-80) Real Prop. Technical Correction/Solicitation of Copies**

- Make changes and amendments, unrelated to public education, to various real property statutes as recommended by the Real Property Section of the North Carolina Bar Association and

regulates the solicitation of a fee for copies of documents recorded with registers of deeds offices.

- Clarifies eligibility for Needs-Based Public School Capital Fund grants for fiscal year 2018-2019, effective July 1, 2018 by stating that a county shall be considered to be designated as a development tier one area if it was so designated by the Department of Commerce in 2017 or 2018 and the county filed a grant application under this section in 2017.
- Enacted June 25, 2018 and effective that date, except as otherwise provided.

## **Fines and Forfeitures**

### **H382, (Session Law 2018-120) DOI Omnibus. -AB**

- Implements an agency bill from the N.C. Department of Insurance to make various changes to the state's insurance laws.
- Amends the reasons for setting aside a forfeiture of a bail bond to extend the time period in which the defendant was incarcerated and the district attorney had notice of the incarceration to include not only the time of defendant's failure to appear but also any time between that failure and the final judgment date.
- Enacted and effective that date, except for the bail bond forfeiture change that becomes effective October 1, 2018, and applies to hearings held on or after that date.

## **Governance**

### **H374, (Session Law 2018-114) Regulatory Reform Act of 2018**

- Makes numerous regulatory changes to various aspects of state government including the following affecting public education:
  - Repeals two State Board of Education policies inconsistent with the court decision in North Carolina State Board of Education v. State of North Carolina and Mark Johnson that authorizes him to manage DPI and serve as head of NC's public school system.
    - Allows the SBE to re-adopt and adopt new rules as long as they are consistent with state law.
    - Allows other SBE policies to remain in place until May 30, 2019 as interim rules and delegates authority from the General Assembly to the Rules Review Commission to review and approve the administrative rules that are proposed by the State Board of Education codification.
- Repeals the section in the 2018 State Budget technical corrections bill that had removed the 2018 state budget law's reinstatement of the prohibition on cities from conditioning zoning and permit approvals on the waiver or reduction of reimbursement for mandated road improvements related to school construction and renovations. *(In essence, this bill's provision creates this new prohibition that is a protection for LEAs.)*
- Enacted June 27, 2018 and effective that date, except as otherwise provided.

### **H379, (Session Law 2018-69) Recodification Working Group**

- Requires all state agencies, boards, and commissions with rulemaking power (including those impacting public schools and their personnel) to submit a list of the crimes covered or pending implementation by the entity to the Administrative Procedures Oversight (APO) and Justice and Public Safety Oversight (JPSO) committees by December 1, 2018.
- Authorizes the Administrative Office of the Courts (AOC) to:
  - Compile a list of all crimes defined at common law and in the General Statutes.
  - Identify unnecessary crimes pursuant to factors listed in this section.
  - Submit a list of unnecessary crimes to APO and JPSO by February 1, 2019.
- Requires counties, towns, and metropolitan sewerage districts to submit a list of all misdemeanor ordinances to APO and JPSO by December 1, 2018.
- Enacted June 25, 2018 and effective that date.

### **H646, (Session Law 2018-101) Amend PED Statutes**

- Amends the statutes governing the General Assembly's Program Evaluation Division (PED) to make it explicit that the division may evaluate non-state entities that receive or expend any state funds.
- Adds the administration of "measurability assessments" as a function of the PED.
- Creates standardized evaluation reports for the PED.
- Revises the powers and duties of the Joint Legislative Program Evaluation Oversight Committee.
- Enacted June 26, 2018 and effective that date.

### **SJR697, (Resolution 2018-6) Joint Session/State Board of Education Confirmation**

- Sets up a joint session of the House and Senate to confirm the Governor's appointment of three new members of the State Board of Education. Ultimately only one of those appointments, Reginal Kenan of Duplin County, was affirmed by the full General Assembly and reappointed to a new term on the State Board of Education.
- Enacted June 28, 2018 and effective that date.

### **H954, (Session Law 2018-17) Rockingham County School Board/Chair Term**

- Establishes a one-year term of the chair of the Rockingham County Board of Education.
- Enacted June 21, 2018 and effective that date.

### **H1031, (Session Law 2018-83) Local Education Funding Dispute Resolution Process**

- Eliminates actions in Superior Court when there is a dispute between a local board of education (LBE) and a board of county commissioners (BCC) as to the necessary appropriation for local current expenses. Instead, if the parties are unable to reach an agreement through mediation, the amount to be appropriated would be determined by a funding formula. The formula is as follows:
  - Year 1 appropriation:
    - Prior year's funding multiplied by (1 + cost index) = Base Amount.

- Base Amount multiplied by Average Daily Membership (ADM) = Year 1 appropriation.
  - If mediation does not resolve the disagreement a second consecutive year, the formula used for the Year 1 appropriation is used again for the Year 2 appropriation.
  - If mediation does not resolve the disagreement a third consecutive year, the following formula is used for the Year 3 appropriation:
    - Prior year's funding multiplied by (1 + cost index increased by 3%) = Base Amount.
    - Base Amount multiplied by ADM = Year 3 appropriation.
  - Local boards of education could continue to file an action in superior court when no agreement is reached on the amount of money to be appropriated for the capital outlay fund by the mediator. The judge or jury would be required to find the amount of money legally necessary from the BCCs to provide the LEA with suitably equipped buildings in order to maintain a system of free public schools.
- Requires the Local Government Commission and the School of Government at the University of North Carolina at Chapel Hill to convene a working group to develop and recommend statutory parameters for fund balances maintained by LBEs and for disputes related to the capital outlay fund. The working group must include at least one representative from each of the following groups: the North Carolina Association of County Commissioners, the North Carolina School Boards Association, and the North Carolina Association of School Business Officers (the finance officer affiliate of the N.C. Association of School Administrators). The working group must report no later than March 30, 2019, to the Joint Legislative Education Oversight Committee.
- Enacted June 25, 2018 and effective with budget ordinances adopted on or after that date.

### **H1076, (Session Law 2018-61) Alamance/Guilford Boundary Line**

- Sets forth the necessary timelines for implementing the completed survey re-establishing the Alamance-Guilford County line as called for in S.L. 2013-68.
- Directs that the boards of education of Alamance County and Guilford County, as of January 1, 2018, are to cooperate with each other on behalf of residents who have students affected by the 2008 survey to ensure that a transition is made that provides students with a choice to remain in their current school system until graduation from high school. Any child who is a resident of any property situated in the areas affected by the 2008 survey on the date this act becomes law and who is a student in the Alamance or Guilford County school systems during the 2018-2019 school year, may attend school in that school system without necessity of a release or payment of tuition. This applies to any siblings of those students.
- Enacted June 25, with effective dates as indicated throughout.

### **H1082, (Session Law 2018-62) Wake/Chatham/Harnett Boundary Line**

- Adjusts the boundary lines of Wake, Chatham, and Harnett counties according to the 2017 NCGS Resurvey.
- Directs that any children and their siblings in these counties enrolled in any of these school systems who are impacted by the shift may be allowed to remain in their current school system until graduation from high school without paying tuition, as long as they resided in the current residence during the 2017-18 school year and continue to reside there.

- Enacted June 25, 2018 and effective January 1, 2019.

### **H1083, (Session Law 2018-127) Appointments Bill 2018**

- Formalizes appointments to various boards and commissions made by the Speaker of the House and the President Pro Tempore of the Senate, including the following that have an impact on public schools and their personnel:
  - Effective July 1, 2018, Dr. Donald L. Martin, Jr., of Forsyth County is appointed to the State Health Plan for Teachers and State Employees Board of Trustees for a term expiring on June 30, 2020.
  - Effective September 1, 2018, Nicholas J. Picerno of Moore County is appointed to the North Carolina Lottery Commission for a term expiring on August 31, 2023.
  - Effective September 1, 2018, Jason B. Roth of Wake County is appointed to the North Carolina Lottery Commission for a term expiring on August 31, 2023.
- Enacted June 29, 2018 and effective that date, except as otherwise provided.

## **Hurricane Relief**

### **H4, (Session Law 2018-134) Hurricane Florence Emergency Response Act**

- Creates the Hurricane Florence Disaster Recovery Fund to provide necessary and appropriate relief and assistance from the effects of Hurricane Florence.
- Transfers \$56.5 million for the 2018-2019 fiscal year from the Savings Reserve in the General Fund to the Hurricane Florence Disaster Recovery Fund, and allocates said funds as follows:
  - \$6.5 million to the Department of Public Instruction to supplement or replace lost compensation of school lunch employees due to school closures resulting from Hurricane Florence.
  - \$50 million to provide the State match for federal disaster assistance programs and to pay for the costs and the relief and assistance authorized by G.S. 166A-19.42(b). This section only applies to counties designated under a federal major disaster declaration.
- Enacted October 3, 2018 and effective that date.

### **S2, (Session Law 2018-135) School Calendar & Pay/Hurricane Florence**

- Provides flexibility in school calendar and school employee compensation laws for schools affected by Hurricane Florence.
- Provides the following flexibility regarding school calendar laws:
  - If the school is located in a public school unit in a federal disaster declaration area, the public school unit may: (i) make up any number of the instructional days or equivalent hours missed, (ii) deem as completed any number of the instructional days or equivalent hours missed up to a total of 20 days, or (iii) implement any combination of both of the above.
  - If the school is not located in a federal disaster declaration area and the public school unit's scheduled calendar will already meet the state-mandated 185 instructional days, or

1,025 instructional hours, no additional days or hours for that school are required to be made up.

- For all other school units impacted by the hurricane, the bill states schools must make up the first two days of missed instructional time, but may choose to make up any additional time missed, or alternatively, may deem that time as completed.
- Requires all public school employees who missed work due to the Hurricane to be paid for those days as if they had worked.
- Provides leniency for students enrolled in an educator preparation program who could not graduate in December 2018 unless some of their class or clinical time is waived.
- Allocates \$6.5 million in funding through the Department of Public Instruction to compensate child nutrition personnel who missed work on these waived instructional days.
- Enacted October 3, 2018 and effective that date.

### **S3, (Session Law 2018-136) 2018 Hurricane Florence Disaster Recovery Act**

- Appropriates \$398,430,477 from the Hurricane Florence Disaster Recovery Fund for the 2018-2019 fiscal year.
  - Allocates \$60 million to the Department of Public Instruction for public school facilities repair in federal disaster declared counties.
- Directs the State Board of Education to adjust the average daily membership (ADM) of public school units in federal disaster declared counties, in order to account for membership decreases resulting from the hurricane in the 2018-2019 school year.
  - Directs the Board to base ADM in these impacted schools on the highest of the first four months' ADM.
  - In regards to increases in ADM, the bill encourages LEAs to apply for additional funding "to address needs related to extraordinary ADM growth due to an influx of displaced students as a result of Hurricane Florence."
- Enacted October 16, 2018, and effective that date, except as otherwise provided in the bill.

### **S823, (Session Law 2018-138) Hurricane Florence/Supplemental Act**

- Appropriates \$299,800,000 from the Hurricane Florence Disaster Recovery Fund for the 2018-2019 fiscal year.
  - Allocates \$23.5 million to the Department of Public Instruction for public school facilities repair as a result of the hurricane.
  - Allocates \$1.5 million to the Department of Public Instruction to cover damages to child nutrition supplies and equipment as a result of the hurricane.
- Creates a "Principal ADM Hold Harmless" provision which allows principals to use ADM calculations from either the 2017-18 school year or the 2018-19 school year in determining ADM placement under the 2018-19 Principal Salary Schedule.
  - This provision only applies to principals of schools located in major disaster declaration areas, and the school must have closed for at least 15 days due to Hurricane Florence (later changed to 10 days in S649).
- Allows the Department of Public Instruction to transfer up to \$350,000 from the State Public School Fund to the Education Fund, to be used "solely to support the Florence Aid to Students

and Teachers of North Carolina (FAST NC) initiative to assist the State’s public schools as students and educators struggle to return to normal following Hurricane Florence and its impact.”

- Enacted December 3, 2018 and effective that date, except as otherwise provided in the bill.

### **S469, (Session Law 2018-145) Technical Corrections**

- Creates a new eligibility category for the Students with Disabilities Scholarship Program for students not previously enrolled in a public school.
- Changes the Transforming Principal Preparation Grant Program so that the NC Principal Fellows Commission would administer the program in collaboration with the State Education Assistance Authority (SEAA), rather than a nonprofit entity, effective July 1, 2019.
- Authorizes the board of directors of a municipal charter school in the towns of Cornelius, Huntersville, Matthews, and Mint Hill, to have the option of joining the Teachers’ and State Employees’ Retirement System (TSERS) and the State Health Plan for Teachers and State Employees.
- Expands eligibility for the principal salary hold-harmless provision, which prevents certain principals from taking a pay cut in January 2019 due to lower enrollment from families displaced by Hurricane Florence; eligibility for this protection requires that the principal’s school was closed for 10 days due to that hurricane rather than the 15 days established in an earlier 2018 law.
- Allows the Wayne County Board of Education to apply to the State Board of Education to adopt a restart model for the operation of Carver Heights Elementary School, which the State Board approved in December 2018 as the selected school for takeover by the Innovative School District (ISD).
  - This provision also repeals the statutory requirement that the State Board select at least two qualifying schools to transfer to the ISD no later than the 2019-2020 school year.
- Enacted December 27, 2018 and effective that date.

## **Omnibus Education Changes**

### **H986, (Session Law 2018-32) Various Changes to Education Laws**

- Clarifies and makes permanent the annual reporting requirement on cursive and writing multiplication tables: the State Board of Education and the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by March 30 of each year on the compliance of each local school administrative unit regarding student memorization of multiplication tables and cursive writing.
- Requires local boards of education to offer advanced courses in mathematics in grades three and higher when practicable. Students who score a level five on end-of-year math tests must be placed in advanced math classes the following year. Students may only be removed from the advanced course if a parent or guardian provides written consent.
- Requires SBE to provide information from annual performance reports for educator preparation providers in user-friendly format that allows comparability of data, and removes requirement for UNC.

- Directs State Superintendent to study and make recommendations on ways to reduce testing not otherwise required by State or federal law.
- Requires DPI to develop content standards for a mental health training program and model program, and minimum requirements for a suicide risk referral protocol, and model protocol.
- Creates a "Renewal School System" model that authorizes a qualifying local school administrative unit to become a renewal school system and therefore be subject only to certain statutes and State Board of Education rules and policies, i.e., giving "charter-like flexibility" to the entire school system.
- Enacted June 22, 2018 and effective that date.

### **S125, (Session Law 2018-37) Various Changes to Education**

- Encourages local boards of education to adopt student attendance recognition programs. If such a program is adopted, students serving as legislative or Governor's pages must be eligible for participation in these programs, and the students' absences resulting from page service must not be included as part of their record of attendance for the purpose of the program.
- For Class II and Class III scholarships, would reference the federal definition of "child" used for determination of Pay and Allowances of the Uniformed Services to delineate individuals who may qualify as children of veterans for various new scholarships.
- Enacted June 22, 2018 and effective that date.

## **Personnel**

### **H92, (Session Law 2018-7) Cherokee Reg. Plate/Teaching Agreement**

- Creates a licensure exception for Cherokee language and culture instruction teachers that allows the State Board of Education to enter into memorandum of understanding with the Eastern Band of Cherokee Indians specifying that Cherokee language and culture teachers can teach without a license, providing that they meet the requirements including demonstrated mastery of the Cherokee language.
- Enacted June 13, 2018 and effective that date.

### **H611, (Session Law 2018-26) Employment Contract Exception**

- Makes it legal for a local school board to hire the spouse of the superintendent, if that decision is discussed and approved in an open meeting.
- Enacted June 22, 2018 and effective that date.

### **H931, (Session Law 2018-94) Unemployment Insurance Technical Changes**

- Delays the effective date for a requirement that employers respond to unemployment insurance claims within 10 days. Changes the effective date from July 1, 2018 to January 1, 2019.
- Enacted June 25, 2018 and effective that date, except as otherwise provided.

# **Retirement**

## **H569, (Session Law 2018-64) Pretax Supplemental Benefits**

- Provides that supplemental insurance plans offered to state employees through the Employee Insurance Committees may be on a pre-tax basis if compliant with IRS Code Section 125.
- Effective June 25, 2018, and applies to products or services funded by payroll deductions beginning on or after January 1, 2019.

## **H651, (Session Law 2018-30) State Pension/Retirement Health Ben. Fund Solvency**

- Creates the Unfunded Liability Solvency Reserve as a reserve in the General Fund, which is an Employee Benefit Trust Fund described as an “account for resources that are required to be held in trust for the members and beneficiaries of defined benefit pension plans, defined contribution plans, other post-employment benefit plans, or employee benefit plans.”
- Enacted June 22, 2018 and effective October 1, 2018.

## **H977, (Session Law 2018-84) Administrative Changes/Retirement System/Treasurer**

- Closes 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) instead of being able to choose the CC ORP.
- Adds convictions on state charges of certain offenses including embezzlement to the list of offenses for which an elected government official's TSERS or the Local Governmental Employees Retirement System (LGERS) pension could be forfeited. In addition, if any portion of elected Register of Deeds' LGERS benefit is forfeited, then that member's entire Register of Deeds Supplemental Pension benefit is also forfeited.
- Provides when a charter school withdraws from the TSERS Retirement System under G.S. 135-8(i), the school must bear the full cost of future investment risk to the Retirement System to pay for service earned by school employees while the school participated in the Retirement System. Payment plans may be made to satisfy withdrawal liabilities with the following requirements:
  1. Retirement System Board of Trustees must approve payment plans;
  2. As of the date of Retirement Board action, employees of the agency would no longer earn retirement service credit;
  3. Payment plans would be only available if a withdrawal liability exceeds two million dollars (\$2,000,000.00);
  4. Fifty percent (50%) of the withdrawal liability must be paid up front;
  5. The agency may make no more than 36 equal monthly payments of the remaining amount;
  6. The Retirement System will put a lien on real property owned by the school in the event that the school fails to pay; and
  7. The Retirement System will use existing law allowing interception of public school allotments if school fails to pay and is still receiving funds from the state.
- Clarifies that the Department's new internally-managed index strategy is consistent with the Iran and Sudan Divestment Acts.

- Clarifies 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.
- Provides 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.
- Creates a new section allowing preemption of state law to comply with provisions of the federal Affordable Care Act.
- Removes the statutory requirement that the State Health Plan have a Deputy Executive Administrator. This requirement predates the inclusion of the Plan within the Department of State Treasurer.
- Amends the qualifications for the State Health Plan Board of Trustees to add a requirement that one member be a medical doctor and to clarify that one member must have a background in actuarial science or health economics.
- Adds the Executive Administrator of the State Health Plan as an ex-officio voting member NC Health Information Exchange Advisory Board.
- Amends the requirement that new charter schools enter the State Health Plan within 30 days to allow election within two years. Also, adds a six-month advance notification requirement for new charter schools electing to participate in the Plan.
- Enacted June 25, 2018 and effective that date, except as otherwise provided.

#### **H985, (Session Law 2018-85) Retirement Technical Corrections Act of 2018**

- Amends the Disability Income Plan to clarify that extended short-term disability benefits are treated in the same manner as long-term disability payments for purposes of post disability benefit adjustments.
- Amends the Local Governmental Employees' Retirement System (LGERS) as it relates to reexamination of beneficiaries retired due to a disability to change the time period from 60 to 120 days in which a beneficiary has to provide a statement of income. Currently, if the information is not provided within 240 days, the right of a beneficiary to a benefit may be terminated. The 240 day period is being changed to 180 days.
- Amends the Teachers' and State Employees' Retirement System (TSERS) and LGERS to provide that purchased military service is treated as creditable service rather than membership service as it pertains to the anti-pension spiking contribution-based benefit cap. The Consumer Price Index period is also amended from December to June.
- Amends the Consolidated Judicial Retirement System definition of "retirement" to specify that separation from service standards includes performing no work in a position covered by an Optional Retirement Program.
- Repeals G.S. 120-4.14(2) to remove an outdated section in the Legislative Retirement System pertaining to the purchase of prior service for terms beginning prior to 1975.
- Repeals G.S. 135-48.23(d) which required the Executive Administrator of the State Health Plan to make quarterly reports and recommendations on the Plan to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.
- Repeals G.S. 135-4(c) which is antiquated language pertaining to creditable service.

- Amends TSERS and LGERS to add "local government employees" to the names and mailing addresses that can be disclosed by the Retirement Systems Division. Section 8(c) provides that this section is effective July 22, 2016, which was the effective date of S.L. 2016-108.
- Amends G.S. 58-86-35(d1) to clarify that when a member is killed in the line of duty, the survivor cannot be paid if a return of contributions has been accepted in the NC Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF). Section 9(b) provides that this section becomes effective July 1, 2018.
- Amends G.S. 135-1(20) in the TSERS to clarify that the following shall not be considered service or work under the "retirement" definition:
  - 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 System.
  - Volunteering in a position normally designated as an unpaid bona fide volunteer position."
- Amends G.S. 135-5(m2) in TSERS and G.S. 128-27(m2) in LGERS to eliminate an annual report from the Board of Trustees to the Joint Legislative Commission on Governmental Operations on the number of person who made an election in the previous calendar year.
- Makes a technical correction in G.S. 128-28(g) in TSERS to change a reference from "Chapter" to "Article".
- Amends G.S. 128-30(j) in LGERS to correct a statutory reference.
- Amends G.S. 135-4(jj) in TSERS to correct a statutory reference.
- Enacted June 25, 2018 and effective that date, except as otherwise provided.

### **H1056, (Session Law 2018-52) FAIR Act of 2018**

- Makes various changes to the Teachers' and State Employees' Retirement System (TSERS) and the State Health Plan, including the following:
  - Amends the State Health Plan (SHP), to add a new section pertaining to employing units cooperating in the collection of amounts owed to the Plan.
  - Amends the State Health Plan when a Plan member recovers any amounts from a liable third party to which the Plan is entitled to provide that if prior to the Plan exercising its right for recovery, a Plan member uses or disposes of the recovered amounts, the Plan may pursue alternative judicial remedies, including a judgment and lien against real property.
  - 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.

- Amends TSERS to prevent any member whose retirement benefits have been forfeited from subsequently purchasing or repurchasing either forfeited benefits or any creditable membership service associated with the forfeited benefits.
  - Amends the TSERS statute pertaining to reciprocity of creditable service with other State-administered retirement systems to prohibit the use of service rendered while participating in the University or Community College Optional Retirement Program (ORP) toward determining benefit eligibility for TSERS. The change applies to members first hired on or after January 1, 2021.
  - Amends the State Health Plan to add a new section on settlement agreements by employing units.
  - Amends TSERS retirement allowance of a member with an average final compensation (AFC) of more than \$100,000, indexed, is not subject to the contribution-based benefit cap (CBBC) if the compensation was earned from multiple simultaneous employers, unless an employer's share of the AFC exceeds \$100,000.
  - Amends the short-term disability benefit criteria.
- Enacted June 22, 2018 and effective that date, except as otherwise provided.

## **Safety**

### **H670, (Session Law 2018-72) Protect Educational Property**

- Makes it a Class H felony to communicate a threat of mass violence on school or religious property.
- Provides for a conditional discharge of persons convicted of those offenses when the offense is committed under the age of 20 by providing that they must do the following: The defendant would be required to be placed on supervised probation for at least one year, complete a minimum of 30 hours of community service, obtain a mental health evaluation, and comply with any treatment recommended as a result of the mental health evaluation.
- Calls for an expunction of the records of the discharge and dismissal obtained.
- Requires a judge to set conditions of pretrial release for those offenses.
- Enacted June 25, 2018 and effective December 1, 2018 and applies to offenses committed on or after that date.

### **S99, (Session Law 2018-5), Appropriations Act of 2018**

- The Appropriations Act of 2018 is the 2018 state budget legislation, as amended by Senate Bill 335, included several policy changes and additional funding for school safety initiatives. Click [here](#) to view a more detailed summary and links to the accompanying money report.
- Enacted June 12, 2018 and effective July 1, 2018 unless otherwise provided.

## **Studies**

### **H1102, (Session Law 2018-17) Study Best Practice/Advanced Ed. Opportunities**

- Establishes a House Study Committee for Promoting Access to Advanced Educational Opportunity in Our Public Schools for Economically Disadvantaged Students Who Demonstrate High Academic Achievement.
- Will consist of nine members: six members of the House of Representatives appointed upon the recommendation of the Speaker of the House of Representatives; the Superintendent of Public Instruction or designee; the Chair of the State Board of Education or designee; and the Present of the University of North Carolina or designee.
- Directs the committee to study the following:
  - National best practices for identifying, teaching, and supporting low-income, high-achieving, and high-capability students.
  - The cost and feasibility of establishing educational opportunities across the state for high-achieving, low-income students.
  - The cost and feasibility of reestablishing a school focused on teaching this student population in the mold of the former North Carolina Advancement School.
  - The feasibility of requiring that at least 60% of those students come from rural areas of the state.
  - Any other issue the study committee considers relevant to the ends of promoting the primary purpose of the committee.
- Directs the committee to submit a final report on the results of its study, including proposed legislation, to the General Assembly on or before December 31, 2018.
- Adopted as a House of Representatives resolution on June 28, 2018 and effective that date.

## **Tax Issues**

### **S75, (Session Law 2018-119) Const. Amendment - Max. Income Tax Rate of 7%**

- Submits to the voters of North Carolina the question of whether to amend the State's Constitution to reduce the maximum allowable tax rate on incomes (both personal and corporate) from 10% to 7%.
- Would make this new limit, if approved by a majority of voters statewide in the statewide General Election in November 2018, applicable with taxable years beginning on or after January 1, 2019.
- Enacted June 28, 2018 and effective that date, except as otherwise provided.