

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 2019

Short Title: Eliminate Golden Parachutes. (Public)

Sponsors: Representatives Blackwell, Dollar (Primary Sponsors); Burr, Cleveland, Current, Gulley, Hilton, Justice, McElraft, McGee, Moore, Randleman, and Starnes.

Referred to: Pensions and Retirement, if favorable, Appropriations.

May 26, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE AMOUNT OF TRANSITION PACKAGES OR GOLDEN  
3 PARACHUTES FOR STATE EMPLOYEES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 126-8.5 reads as rewritten:

6 "§ 126-8.5. **Discontinued service retirement allowance and severance wages for certain**  
7 **State ~~employees~~employees; limitation to amount of transition salary packages**  
8 **or golden parachutes for State employees.**

9 (a) When the Director of the Budget determines that the closing of a State institution or  
10 a reduction in force will accomplish economies in the State Budget, he shall pay either a  
11 discontinued service retirement allowance or severance wages to any affected State employee,  
12 provided reemployment is not available. As used in this section, "economies in the State  
13 Budget" means economies resulting from elimination of a job and its responsibilities or from a  
14 lack of funds to support the job. In determining whether to pay a discontinued service  
15 retirement allowance or severance wages, the Director of the Budget shall consider the  
16 recommendation of the department head involved and any recommendation of the State  
17 Personnel Director. Severance wages shall not be paid to an employee who chooses a  
18 discontinued service retirement. Severance wages shall not be subject to employer or employee  
19 retirement contributions. Severance wages shall be paid according to the policies adopted by  
20 the State Personnel Commission.

21 Notwithstanding any other provisions of the State's retirement laws, any employee of the  
22 State who is a member of the Teachers' and State Employees' Retirement System or the  
23 Law-Enforcement Officers' Retirement System and who has his job involuntarily terminated as  
24 a result of economies in the State Budget may be entitled to a discontinued service retirement  
25 allowance, subject to the approval of the employing agency and the availability of agency  
26 funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be  
27 approved for employees with 20 or more years of creditable retirement service who are at least  
28 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be  
29 approved for employees with 20 or more years of creditable retirement service who are at least  
30 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement  
31 precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is  
32 approved, the employing agency shall make a lump sum payment to the Administrator of the  
33 State Retirement Systems equal to the actuarial present value of the additional liabilities  
34 imposed upon the System, to be determined by the System's consulting actuary, as a result of



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1 the discontinued service retirement, plus an administrative fee to be determined by the  
2 Administrator.

3 The salary used to determine severance wages under this section is the last annual salary  
4 except that if the employee was promoted within the previous 12 months, the last annual salary  
5 is that annual salary prior to the promotion. If the annual salary prior to the promotion is used,  
6 it shall be adjusted to account for any across-the-board legislative salary increases. Excluded  
7 from any calculation are any benefits such as, but not limited to, overtime pay, shift pay,  
8 holiday premium, or longevity pay.

9 (b) Any employee separated from State government and paid severance wages under  
10 this section shall not be employed under a contractual arrangement by any State agency, other  
11 than the constituent institutions of The University of North Carolina and the constituent  
12 institutions of the North Carolina Community College System, until 12 months have elapsed  
13 since the separation. This subsection does not affect any reduction in force rights that the  
14 employee may have.

15 (c) The amount of any transition salary package payable to certain State employees  
16 employed by State agencies, departments, institutions, and The University of North Carolina  
17 shall be limited by the provisions of this subsection as follows:

18 (1) Notwithstanding any other provision of law, no State employee who leaves  
19 the position that the employee most recently held shall continue to be paid  
20 the salary for that position when the employee is no longer carrying out the  
21 responsibilities for that position. This includes periods of transition.

22 (2) Notwithstanding subdivision (1) of this subsection, a State employee who  
23 leaves the position that the employee most recently held may continue to be  
24 paid the salary for a position that he or she no longer holds in the following  
25 circumstances only:

26 a. The payment is required as a term of the contract that was entered  
27 into at the time the person was hired for, or promoted to, the position  
28 most recently held; and

29 b. The contract is signed by the appropriate finance officer or a properly  
30 designated deputy finance officer for the agency hiring the person,  
31 approved by the agency head, and approved by the Office of State  
32 Budget and Management. If the State agency is The University of  
33 North Carolina or a constituent institution of The University of North  
34 Carolina, then the contract must be signed by the appropriate finance  
35 officer or a properly designated deputy finance officer for The  
36 University of North Carolina or the constituent institution, approved  
37 by the appropriate chancellor, and approved by the UNC Board of  
38 Governors or by the Board of Trustees of the constituent institution  
39 as appropriate.

40 (3) This subsection does not affect or impair a State employee's rights to  
41 severance wages or a discontinued service retirement allowance as provided  
42 in subsections (a) and (b) of this section, or terminal leave payments for  
43 vacation leave, bonus leave, and longevity, if applicable.

44 (4) The following definitions apply in this subsection:

45 a. State employee who leaves the position that the employee most  
46 recently held. – Includes those circumstances in which a person  
47 retires, resigns, or voluntarily or involuntarily terminates  
48 employment. The phrase also includes those circumstances in which  
49 a person continues to work for the State but accepts a lesser position  
50 with the State.

1                                    b.     Transition. – When a State employee moves from the position that  
2                                    the employee most recently held to a lesser position of employment.  
3                                    The term includes a 'golden parachute' or a sabbatical."

4                    **SECTION 2.** This act becomes effective July 1, 2010. G.S. 126-8.5(c)(1) applies  
5 retroactively and also applies to payments that have not yet been made unless there is a legally  
6 enforceable contract to pay.