

# PENSIONS AND RETIREMENT PLAN ENACTMENTS IN 2002 STATE LEGISLATURES

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**INTRODUCTION.** This report summarizes major state pensions and retirement legislation that state legislatures enacted in 2002. The criterion for selection has been usefulness to policy makers in other states who may face similar issues and want to know how other states have addressed the issue. The report is organized by topics, listed below. Cost-of-living adjustments, administrative issues and technical changes are excluded from this report.

This report has reviewed legislation enacted in 43 states through October 31, 2002. Six states -- Arkansas, Montana, Nevada, North Dakota, Oregon and Texas -- did not hold regular legislative sessions in 2002. Wyoming's regular session was limited to the state budget.

Major changes in state retirement policy were rare in 2002 state legislation. A notable exception was the Nebraska Legislature's enactment of a cash-balance plan as an optional retirement plan for county and state employees. Those employees have been covered by defined contribution plans which, according to a study Buck Consultants, *Benefit Review Study of the Nebraska Retirement Systems*, completed in August 2000, do not meet adequacy needs for employee retirement income. (See "Deferred Compensation Plans/Optional Retirement Plans.")

Georgia created the first new defined benefit plan this report has noted in the five years of its existence. Legislation established the Georgia Military Pension Fund, a noncontributory plan to provide retirement benefits to members of the Georgia National Guard of up to \$100 per month, depending upon the length of a retiree's creditable service. Federal military service may count toward creditable service. (See "Defined Benefit Plan – New.")

Many legislatures revised state retirement policy to conform with the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTERRA), *q.v.* below. Other than conformity issues, the policy issues addressed in the greatest numbers of states were conditions governing re-employment after retirement, which was also a major issue in 2000 and 2001, and early retirement incentives.

The focus of legislation designed to ease retirees' return to covered employment has been the teaching profession, in a national move to address a shortage of experienced teachers, and that remained the case in 2002. Examples are legislation summarized below from Alaska, Colorado, Georgia, Oklahoma, Virginia and West Virginia. However, an increasing amount of legislation will allow general state employees and law enforcement officers to return to covered employment as well, as appears in legislation from Arizona, Delaware, Georgia, Iowa and Maine. Twenty states enacted such legislation in 2001, following seven states in 2000. (See "Re-employment After Retirement.")

Early retirement incentives come under consideration when state governments encounter serious budget difficulties as they have in 2001 and 2002. Since late 2001, programs directed at large numbers of state employees and teachers have been adopted in Illinois, Iowa, Massachusetts, Michigan, New Jersey and New York. (See “Early Retirement Incentives.”)

Two states enacted programs to provide partial lump sum options to retirees in 2001 – Kentucky and Ohio. Such programs allow a person who is about to retire in a defined benefit program to choose to receive a lump sum benefit at the time of retirement, with a reduced monthly annuity to follow. The plans adopted in Kentucky and Ohio limit the maximum lump sum to the equivalent of 36 months’ annuity. (See “Defined Benefit Plan Changes.”)

**SOURCES AND ACKNOWLEDGEMENT.** The sources of this report are retirement systems’ Web sites and direct communication with legislative staff and retirement system staff. NCSL is grateful to the many retirement system staff throughout the United States who have posted on their web sites timely, plain-language summaries of relevant state legislation for the use of their members. NCSL is responsible for any errors in this report. Please communicate any corrections or suggestions for changes to [ron.snell@ncsl.org](mailto:ron.snell@ncsl.org).

## **LIST OF TOPICS**

- Attachment of payments
- Conformity with provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTERRA)
- Contribution rates
- Credit for accrued leave
- Deferred Compensation Plans/Optional Retirement Plans
- Defined Benefit Plan Changes (including partial lump-sum options)
- Defined Benefit Plan – New
- Defined Contribution Plans For Broad Categories of Employees
- Deferred Retirement Option Plans
- Disability Retirement
- Early Retirement Incentives
- Funding Issues
- Gain sharing plans
- Governance
- Health Coverage
- Legislative Retirement Issues

- Re-employment after Retirement
- Retirement Eligibility
- Service Credit/ Purchase of Service/ Transfer of Credit
- Studies
- Taxation
- Vesting
- Withdrawn Contributions

### **ATTACHMENT OF PAYMENTS**

**WEST VIRGINIA.** S.B. 615 requires the West Virginia Consolidated Public Retirement Board (CPRB) to withhold payment or refunding of any participant contributions when an employee has been charged by criminal complaint, indictment or information with an offense which constitutes less than honorable service and larceny of funds or property from a state agency or political subdivision. The CPRB will release the contributions upon receipt from a court stating the charge has been dismissed. The law affects all retirement plans.

### **CONFORMITY WITH PROVISIONS OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 (*EGTERRA*)**

**NOTE** – Omission of a state name from this list does not imply that the state is not in conformity with *EGTERRA*.

**ALASKA** – H.B. 254

**ARIZONA** – S.B. 1095 (2002 *Ariz. Sess. Laws* Chap. 213)

**CALIFORNIA** – A.B. 131 (2002 *Cal. Stats.*, Chap. 30); A.B. 1122 (2002 *Cal. Stats.*, Chap. 35); S.B. 657 (2002 *Cal. Stats.*, Chap. 34).

**COLORADO** – S.B. 106

**DELAWARE** – S.B. 426 (73 *Del. Laws* C419)

**HAWAII** – Act 223

**INDIANA** – S.B. 59 (*P.L.* 61); H.B. 1195 (*P.L.* 177). *P.L.* 177 brought Indiana income tax laws into conformity with the tax relief provisions of *EGERRA*.

**IOWA** – H.F. 2532

**KANSAS** – H.B. 2621

**KENTUCKY** – H.B. 309

**LOUISIANA** – Legislation not required for implementation.

**MARYLAND** – H.B. 354

**NEBRASKA** – L.B. 407

**OKLAHOMA** – H.B. 1660

**SOUTH DAKOTA** – H.B. 1032

**VIRGINIA** – S.B. 121

**WEST VIRGINIA** – S.B. 608

**WISCONSIN** -- 2001 Wisconsin Act 109

## **CONTRIBUTION RATES**

**NEBRASKA.** L.B. 407 fixed contribution rates for the School Plan at their current rate and provided that any actuarially-required increases in the future will be paid by state government.

**PENNSYLVANIA.** H.B. 27 (Act 2002-38) provides that beginning July 1, 2004, employer contributions for the State Employee Retirement System shall be based on system funding experience but shall not in any year fall below 1 percent of employee salaries.

**WASHINGTON.** H.B. 2782 established new employer, member, and state contribution rates for PERS, TRS, SERS, and LEOFF 2, beginning April 2002. The new contribution rates represent slight decreases from the rates previously in effect. The new contribution rates implement the findings of the 2000 actuarial evaluation of Washington retirement systems, according the fiscal note for H.B. 2782 from the Office of the State Actuary.

## **CREDIT FOR ACCRUED LEAVE**

**WEST VIRGINIA.** H.B. 4172 authorizes the West Virginia Consolidated Public Retirement Board to promulgate a rule on service credit for accrued and unused sick and annual leave.

## **DEFERRED COMPENSATION PLANS/OPTIONAL RETIREMENT PLANS**

**KANSAS.** H.B. 2621 allows school boards to make matching grants to an employee's 403(b) plan and the state government to make matching contributions to employee 457 plans.

**LOUISIANA.** The Board of Trustees of the Teachers Retirement System of Louisiana (TRSL) has deferred the implementation of a new, optional, combined defined benefit/defined contribution plan until July 1, 2003.

As authorized by Act 1055 of the 2001 Regular Legislative Session, the Alternative Contribution Plan (ACP) is being created for TRSL Regular Plan members who have less than five years of service credit and who joined TRSL on or after July 1, 1999, including new employees hired on or after July 1, 2003. This plan will not be available to members of TRSL school food service Plan A or Plan B. TRSL members employed in institutions of higher education who are eligible for the current Optional Retirement Plan (ORP) will also be able to choose the ACP.

The ACP will be a combined defined benefit (DB) / defined contribution (DC) plan under Section 401(a) of the Internal Revenue Code. This new plan will be available as a one-time, irrevocable, lifetime choice to eligible members.

The ACP will have two parts:

1. A TRSL benefit (DB plan)

The guaranteed monthly benefit will be equal to 1.25% times years of service credit times the average of the highest three consecutive years of salary. This benefit will be

payable at the same age and years of service required of TRSL Regular Plan members. (Regular Plan members receive a guaranteed monthly benefit with a 2.5% accrual rate.) Thus, after 30 years of service at any age, ACP members will have a guaranteed benefit equal to 37.5% of their average highest three years of consecutive earnings.

2. An ACP account (DC plan)

The account funds will be invested with one of the three ACP providers to be designated by the TRSL Board of Trustees. This account will be funded by contributions of 6% of the ACP member's salary and invested in the mutual funds, bond funds, etc., of the member's choice. The account balance will increase or decrease with the interest/dividends paid by those investment vehicles.

ACP members and their employers will contribute exactly the same percentage of salary as TRSL Regular Plan members and their employers.

**NEBRASKA.** L.B. 407 makes the most profound changes to the State and County Retirement Plans since their creations, according to the summary published by the Nebraska Public Employees Retirement Systems at <http://www.nol.org/home/pers/Legislative.htm>. [Some of the changes under discussion are listed in the summary as L.B. 686, which was amended into L.B. 407 in the course of legislative consideration.]

The legislation created a cash-balance plan as an optional alternative to the current state and county defined contribution plans. The vesting period for both plans was reduced from five years to three years. Membership in a state plan was mandated for any employee with 12 months of continuous service for a covered employer. The cash-balance plan will provide an inflation-protected annuity with a 2.5 percent capped COLA, similar to that provided in the Nebraska School, Judges and Patrol plans, a provision designed to increase the annuity options open to members.

Contribution rates for the cash-balance plans will be the same as for the existing state and county DC plans. Contributions will accrue earnings at a statutorily-set rate of return (called the interest credit rate). The new law sets that rate as the "applicable federal mid-term rate" published by the IRS plus an additional 1.5%. It also includes a floor rate of 5%, below which the rate may not fall. This means the interest credit rate can rise with the mid-term rate, but will never fall below 5%. (Since 1985, NPERS estimates the federal mid-term rate plus 1.5% would have fluctuated between approximately 5.4% and 12.8% - with an average of approximately 8.4% - during that time, the rate never fell below the 5% floor rate.)

At retirement or termination, the cash balance benefit will allow the member to:

- (1) use the money to purchase an annuity from the plan that is funded and guaranteed by the plan,
- (2) leave the money with NPERS,
- (3) roll the money over into another tax-deferred account, or
- (4) "cash in" the entire amount of his or her account (although, if not vested, the employee may only take the employee cash balance account).

NPERS points out that:

The risk of bad investment returns falls on the plan as a whole (as with a DB plan). On the other hand, any excess returns will also flow into the plan as a whole. By federal law, however, any excess returns must be used for the exclusive benefit of the members. The Board decides whether to use any excess for the members' accounts (above the interest credit rate) or to make benefit improvements to the plan (with the Legislature deciding what benefit enhancements may be made).

Current members may choose to transfer to the cash-balance system. The choice must be made by December 1, 2002.

### **DEFINED BENEFIT PLAN CHANGES**

**ALASKA.** H.B. 254 (2002 *Alaska Session Laws*, Chap. 59) changes the number of years for calculation of average monthly compensation for peace officers and fire fighters from five years to three years; allows a disabled peace officer or fire fighter to elect the higher of their disability benefit or their normal retirement benefit upon reaching normal retirement age. Currently, they are automatically converted to a normal retirement benefit, which often has the effect of reducing their pension benefit; and increases the death benefit for survivors of peace officers or fire fighters who die on the job from 40 percent of final salary to the higher of 50 percent of final salary or 75% of the normal retirement benefit the officer would have earned had the officer survived to normal retirement.

**HAWAII.** 2002 *Hawaii Sess. Laws*, Act # 128, changed the formula for calculating final average salary to the highest three calendar years, the highest three school contract years, or the last 36 credited months.

**ILLINOIS.** H.B. 250 (*Public Act 92-0014*) increased the retirement benefits formula for alternative plan members (i.e., police and other public safety state employees) to a flat rate of 2.5% for each year of service for coordinated employees, and 3.0% for noncoordinated employees. The maximum allowable pension increases from 75 to 80% of final average compensation. The new formula also applies to alternative formula members who retired on January 1, 2001 to the present. Members who retire within four months after the date the Governor signs this bill will also receive their first 3% yearly pension increase on January 1, 2002 if they are 55 or older.

**IOWA.** H.F. 2532 provides that the salary used to calculate a judge's retirement is the highest salary, or highest three years of salary, and not the salary the judge received just prior to retirement or the last three years of the judge's salary. It also provides that a judge who was a member of the Iowa Public Employees Retirement System can make contributions to the judicial retirement system and receive service credit under the system for the judge's service under IPERS. The cost of the purchase of service is the actuarial cost of the service purchase.

**KANSAS.** S.B. 509 provides that any officer or employee of the state whose compensation is reduced by law or furlough, or voluntarily, and who retires between the effective date of the

bill and June 30, 2007, will receive compensation credit under the Kansas Public Employee Retirement System as though there had been no reduction in pay.

**KENTUCKY.** H.B. 309 created the Partial Lump Sum Option (PLSO) retirement benefit for members of the Kentucky Retirement Systems. A retiree may choose a lump-sum payment of 12, 24 or 36 times the monthly benefit, with or without a survivor's option. Subsequent monthly benefit payments are reduced to reflect the impact of the lump-sum payment on the lifetime benefit of the retiree.

**NEBRASKA.** L.B. 407 made numerous changes to the five major state plans. The changes included the addition of a cash-balance plan as an optional retirement plan for state and county employees: see Nebraska under the heading "Deferred Compensation Plans/Optional Retirement Plans."

School Plan membership was made mandatory for permanent employees who work 15 hours or more per week; service credit will be earned on a monthly basis with 1,000 hours of service equivalent to one year of credited service. Salaried employees receive pro-rated service credit according to their FTE percentage. The definition of final average compensation was changed to the three highest 12-month periods rather than fiscal years.

**OHIO.** S.B. 247 created a partial lump sum option for members of the Ohio Public Employees, Teachers, and School Employees retirement systems. Details vary among the three plans but in general allow a retiring member of a defined benefit plan to request a lump sum withdrawal at the time of retirement, with subsequent annuity payments reduced to make the total benefit over time the actuarial equivalent of the amount an annuity without a lump sum benefit would have produced. The lump sum benefit must be equal to at least six times and not more than 36 times what the retiree's unreduced monthly annuity would have been. The lump sum must be calculated so that it does not reduce the monthly benefit by more than 50 percent. The act also allows the surviving spouse or dependent beneficiary of a member who dies before electing a plan of retirement benefits, to choose a lump-sum option for the survivor benefits.

**OKLAHOMA.** S.B. 1223 modified the eligibility requirements for normal retirement for members of the Uniform Retirement System for Justices & Judges (URSJJ). Justices or judges who serve for 8 years or more are eligible at age 65 rather than 70 for full benefits, and those with 10 years or more are eligible at age 60 rather than 65. Senate Bill 1223 also changes the maximum percentage of average monthly salary a justice or judge may receive in a retirement benefit from 70% to 72½% for members retiring on or after July 1, 2002.

**SOUTH DAKOTA.** H.B. 1033 increased the multiplier in benefit formulas for members of the South Dakota Retirement System (for Class A credited service) for service after July 1, 2002, by 0.25 percent.

#### **DEFINED BENEFIT PLANS -- NEW**

**GEORGIA.** H.B. 227 establishes the Georgia Military Pension Fund to be administered by the Board of Trustees of the Employees' Retirement System. The fund will begin operation on July 1, 2002. All members of the Georgia National Guard on that date, and those joining after that date, will become members of the fund. A member will be able to retire if he or

she has: attained age 60; has 20 or more years of creditable service (15 years as a member of the Georgia National Guard); served at least 10 consecutive years as a member of the Georgia National Guard immediately before discharge; or received an honorable discharge from the Georgia National Guard. A retired member will receive a monthly service retirement allowance of \$50 plus an additional \$5 per month for each year of creditable service over 20 years, up to a maximum monthly benefit of \$100. The bill provides for creditable service for prior service in the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Marine Corps, Air Force, Air Force Reserve, Air National Guard and Coast Guard, if such service meets federal requirement for creditable service.

## **DEFINED CONTRIBUTION PLANS FOR BROAD CATEGORIES OF EMPLOYEES**

**FLORIDA.** H.B. 807 (*2002 Fla. Laws, Chap. 2002-66*) revised the Public Employee Optional Retirement Plan to provide an extension of time for asset transfer in the event of a market disruption; modify election/enrollment periods to give existing employees and newly hired employees 6 months to educate themselves and make a plan election or default to the FRS Pension Plan; revise statutes governing continued coverage of retirees under the State Group Insurance Program to provide for coverage of FRS Investment Plan participants who meet specified criteria; and establish a disability benefit program for participants of the FRS Investment Plan similar to the program for members of the FRS Pension Plan.

**OHIO.** S.B. 247 revised 2000 law that established a defined contribution plan for members of the Public Employees' Retirement System (PERS). S.B. 247 allows the PERS board to establish hybrid plans to include such benefits as retirement, disability, survivor or death benefits, health or long-term care insurance and cost of living increases. Provides for transfer into the plan by existing members of the defined benefit plan. Provides for participation of elected state or local officials in the PERS defined benefit plan and any defined contribution plan PERS may create. Provides for transfer of membership between DB and DC plans, and for the fiscal transfers and service credits related to such membership transfers. Provides that a DC plan may include a requirement for participants to accumulate a portion of their contributions for health insurance. Authorizes PERS to withhold a portion employee or employer contributions for administering the plan or for health insurance coverage.

## **DEFERRED RETIREMENT OPTION PLANS**

**ALABAMA.** S.B. 82 (*2002 Ala. Acts, Act # 23*) created a DROP for members of the Teachers' Retirement System and the Employees' Retirement System. Eligibility requires age of 55 with 25 years of service (52 for highway patrol). Membership in the plan must be for at least three and for no more than five years. A person can participate only once.

**INDIANA.** S.B. 60 created a DROP for members of the police and firefighters' retirement plans, which cover municipal employees. Membership in the plan must begin by December 31, 2006, and must extend from at least 12 months to no more than 36 months. The DROP benefit will consist of the member's retirement benefit for the number of months the person

is in the program, with no accumulation of interest and no COLA increases in the retirement benefit while a person is in the DROP. Accumulations may be withdrawn in a lump sum or in three equal annual payments, or rolled over to an IRA.

**LOUISIANA.** Act 136 (H.B. 129) eliminated the sunset provision in the 2000 legislation that established the optional retirement plan and extended opportunities for enrollment for members of the Louisiana State Employees Retirement System.

**OHIO.** S.B. 134 created a DROP for the Ohio Police and Fire Pension Fund. Eligible members of the fund may elect to participate any time before filing an application for retirement benefits. Eligible members are those who have completed 25 years of active service and who are at least 48 years old. Members may participate in the plan for no more than eight years. During participation in the plan, the member's retirement benefit and employee contributions accrue for a benefit (although there are restrictions on the accrual if the person participates in the DROP for less than three years.) The member is not required to retire at the end of the eight year period, but if he or she continues in covered employment, the member will forfeit the DROP accrual and will be treated as if ordinary active service had continued throughout the period.

#### **DISABILITY RETIREMENT**

**MARYLAND.** H. B. 395 permits the Board of Trustees of the State Retirement Agency to suspend temporarily the retirement allowance of a disability retiree who is employed by a participating employer at a salary that is equal to or greater than the average final salary of the person at retirement. The benefit may be reinstated when the retiree is not working or is earning less than the final average salary. The legislation applies only to retirees who began receiving disability benefits before July 1, 1998.

#### **EARLY RETIREMENT INCENTIVES**

**ILLINOIS.** H.B. 2671 (PA #92-566) established two alternative incentive plans for members of the State Employee Retirement System and state employees who participate in the Illinois Teachers' Retirement System to take early retirement. The legislation does not affect school district employees. The window extends from August 1, 2002, to January 1, 2003.

Option 1 allows early retirement for members with at least eight years of service, including at least five years of contributing and age credit. It allows receipt of full benefits at a variety of combinations of age and service, including the Rule of 85; 13 years of service at age 60; 25 years of service at age 55; and for alternative formula employees (i.e., police and public safety personnel), 20/55 or 25/50.

Option 2 requires purchase of up to five years of service credit and retirement from covered employment, and provides retirement benefits when the person becomes eligible later. Applicants must have eight years of service, including at least five years of contributing service. No age requirement applies. To receive benefits, members must be at least 50 years old and must meet one of a range of service and age combinations.

The Illinois Pension Commission has been directed to report to the legislature on the costs and benefits of the early retirement incentive for five years.

**KANSAS.** S.B. 375 eliminated a requirement that community college boards and public school boards that create an early retirement incentive program must submit actuarial data every three years. The reporting requirements are changed to require reports to the State Board of Education or the State Board of Regents, as appropriate for the employer in question, which must provide summary data the Joint Committee on Pensions, Investments and Benefits. The effect of the change will be to require less expenditure on actuarial studies.

**MASSACHUSETTS.** 2001 *Mass. Acts.* Chap. 219 (signed on Dec. 31, 2001) created an Early Retirement Incentive program (ERIP) for any Group 1 employee in the State Retirement system. Members eligible for the incentive are those eligible to retire, those at age 55 with 10 years of service or with 20 years of service, and active on the effective date of act. Members exempted from (ERIP) are judges, elected officials and employees paid from a federal trust.

The act limits the number of applicants to 6,700, but members who entered state service before January 1, 1984 would not be restricted by the 6,700 limitation. It provides for an additional 5 years of service or age or any combination not exceeding the sum of 5 as an early retirement incentive. Includes an application period from January 1, 2002 to February 15, 2002 and requires a retirement date of March 15, 2002. University of Massachusetts applicants' retirement date would be June 15, 2002, unless the Chancellor determined such retirement could be earlier.

The act limits the filling of vacancies created by program. It allows for the filling of positions, not exceeding 20% of the salary amount reduced through ERI program. Also requires participants to accept staggered payment of vacation, sick and other accrued benefits over three years to be eligible for program. It calls for an actuarial evaluation of the program.

Amendments in Chapter 62 of the Acts of 2002 extended the provisions of the Early Retirement Incentive Program to state employees who are paid through federal, trust and capital funding sources. Under the provisions of this bill, employees must file for retirement no later than April 19, 2002 and must retire on May 30, 2002. The bill also contains separate provisions for the Judiciary and the Legislature making certain employees classified in Group 2 and not originally eligible for the ERI due to being between the ages of 50 and 55 eligible for the ERI. The amendmends also eliminated the participation limits in the original act.

Chapter 218 of 2001 provided a comparable ERI for members of the judiciary and legislative staff.

Chapter 116 of the Acts of 2002 allowed cities, counties, towns, districts and authorities to adopt early retirement incentive programs for the purpose of reducing the size of their workforces.

**MICHIGAN.** S. B. 1128 of the 2002 legislative session created an early retirement incentive ("Early Out Plan") for state employees. In general, that eligible state employees whose combined age and service equals 80 years, or who are age 60 or older with 10 years of credited service, can retire under the Early Out provisions with an enhanced benefit. Applications had to be filed in April 2002 and retirement must occur by November 1.

Those who transferred from the Defined Benefit to the Defined Contribution plan may be eligible for the Early Out (provided they meet the above conditions), with an adjusted pension calculation.

Defined Benefit plan members will receive a benefit equal to 1.75 percent of final average compensation multiplied by the number of years of credited service. Those who transferred from the Defined Benefit to the Defined Contribution plan will receive a benefit equal to .25 percent of final average compensation multiplied by the number of years of credited service.

**NEW JERSEY.** 2002 New Jersey Laws, Chap. 23, creates an early retirement incentive program for state and specified other public employees, effective May 30, 2002, requiring retirement (varying for different groups of employees) by no later than the end of the fiscal year that affects the employees in question..

The eligibility requirements and the additional benefits are as follows:

- Employees who are at least 50 years of age with at least 25 years of service credit under the Public Employees' Retirement System (PERS) or the Teachers' Pension and Annuity Fund (TPAF) will receive three additional years of service credit.
- Employees who are at least 60 years of age with at least 20, but less than 25, years of service credit in PERS, TPAF or ABP, will receive payment by the retirement system or the State of retiree health care benefits on the same basis that the State currently pays for the coverage of retirees with 25 or more years of service credit.
- Employees who are at least 60 years of age with at least 10, but not more than 20, years of service credit in PERS, TPAF or ABP, will receive an additional pension or payment of \$500 a month for 24 months following the date of retirement.
- Employees who are at least 55 years of age with 25 or more years of service credit in PERS or TPAF and who retire on a veteran's retirement will receive an additional pension in the amount of 3/55 of the compensation upon which the retirement allowance is based.

When the needs of State government, a college or university, or a State autonomous authority so require, an employee electing to retire under the law may continue in employment for up to one year with the approval of the employer and the agreement of the employee.

The Director of the Division of Pensions and Benefits is required to report annually for five years to the Joint Budget Oversight Committee on the aggregate costs and savings resulting from the enactment of this substitute.

**NEW YORK.** SB7431/A11420 (2002 New York Laws Chap. 69) created an early retirement incentive program for members of the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York City teachers' retirement system, the New York City board of education retirement system and the New York City employees' retirement system. To be eligible, employees must be age 50 or older with 10 or more years of service, or age 55 with 5 or more years of service and in active service on February 1, 2002. Employees receive one month on credit for each year of service, up to a maximum of three years credit.

The legislation also creates a separate 90-day window to allow members of the retirement programs aged 55 or older with 25 years or more of service, to retire without an age reduction. The 55/25 provision cannot be combined with the early retirement incentive program.

## **FUNDING ISSUES**

**CALIFORNIA.** S.B. 1318 (2002 *Ca. Stats. Chap 15*) provides for optional employer pick up all or some of members' contributions to the California State Teachers Retirement System defined benefit program and defined benefit supplement program. The option is not to be exercised on an individual basis, but must be bargained. Employer payments are not to be considered compensation.

**FLORIDA.** H.B. 1973 (2002 *Fla. Laws Chap. 177*) provides for a reduction of employer contributions for each class of the Florida Retirement System (FRS) for Fiscal Year 2003. The reduced rates will be below the normal costs for the fiscal year. The legislation directs the state actuary to recognize a portion of the excess actuarial assets of the FRS Trust Fund to offset the reduced employer contributions. State agencies will save \$258 million, and local governments and other members of FRS will save \$804 million. The bill also imposes a contribution of 0.15 percent of payroll on all covered employers to pay the educational and administrative costs associated with implementation of Florida's new optional defined contribution plan. Source: House of Representatives Fiscal Responsibility Council analysis of H.B. 1973.

**HAWAII.** 2002 *Hawaii Sess. Laws, Act # 147* provides that the amortization period to liquidate the accrued unfunded liability of the Employee Retirement System will be extended from the former date of 2016 to 2029 in order to reduce the required annual contribution from employers. The act cites as cause that "The tragic terrorist attacks on the East Coast have had a profound negative economic impact on Hawaii and the rest of the United States."

**MAINE.** *Public Law 2001, Chap. 707* requires the state to retire the unfunded accrued liabilities of the Maine State Retirement System at a specific rate such that the amount paid in a year is not less than the amount paid in the immediately preceding fiscal year. If the actuarial requirement is less than the previous year's payment, the Board of Trustees is to recommend a funding methodology that would realize payment of the required amount. If it cannot do so, it must ask for appropriation of the required amount.

**PENNSYLVANIA.** H.B. 27 (Act 2002-38) provides that beginning July 1, 2004, employer contributions for the State Employee Retirement System shall be based on system funding experience but shall not in any year fall below 1 percent of employee salaries.

**SOUTH CAROLINA.** On November 6, 2002, voters rejected a state constitutional amendment that would have allowed assets of the state retirement plans to be invested in other than American companies traded on American stock exchanges, thus providing additional investment options.

## **GAIN SHARING PLANS**

No legislation.

## **GOVERNANCE**

**HAWAII.** 2002 *Hawaii Sess. Laws*, Act # 128, changed the schedule for paying pension benefits to monthly from twice-monthly, and made other minor administrative changes to simplify administration and benefit clients.

**KENTUCKY.** H.B. 309 authorized the Kentucky Retirement Systems to hire an adequate number of staff to make it more responsive to members' needs. The Board may set a personnel classification and compensation system with benefits and protections comparable to those of the state personnel system.

**MINNESOTA.** Article 11 of Chapter 392, *Laws of 2002*, recodifies Minnesota pensions law contained in Chapter 356, *Minnesota Statutes*.

**MISSOURI.** H. B. 1674 requires all public retirement plans to file proposed rules with the Joint Committee on Public Employee Retirement.

**OKLAHOMA.** H.B. 1719 added two members to the Oklahoma State Pension Commission, to be appointed by the governor, and added the following responsibilities to the commission's duties:

- Review proposed legislation affecting state retirement systems and make recommendations to the legislature regarding the legislation;
- Make recommendations to the legislature and governor on updating or standardizing retirement system benefit designs; and
- Make recommendations on pension system finance.

The legislation also requires state retirement systems to report actuarial and financial information to the commission in a standardized form, using common actuarial and financial assumptions.

**UTAH.** H.B. 250 recodified Utah retirement law.

**WASHINGTON.** Initiative Measure 790, approved by the voters on November 6, creates in law a new board of trustees to manage the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF). Of the 11 members, six would be members; three would be employers, and the last two would be a state representative and a state senator. The board would have the power, within limits, to design and implement improved benefits for LEOFF. Maximum percentages of benefit costs are set in the law, with the provision that they can be exceeded with the consent of those who pay them: for example, the state contribution cannot exceed 4 percent of covered payroll without a vote of the legislature. The joint committee on pension policy and the pension funding council would have no applicability or authority over matters related to LEOFF Plan 2. Plan assets would be managed by the state investment board as provided by law.

**WEST VIRGINIA.** H.B. 4021 removed the requirement for a judicial review before the issuance of pension obligation bonds.

## **HEALTH COVERAGE**

**This section is intended to address broad policy issues, not fiscal issues.**

**ARIZONA** H.B. 2558, which would have increased health subsidies for retirees, was vetoed by the governor.

**MAINE.** Public Law 2001, Chap. 641, authorizes a retired state employee to add health coverage of a spouse or dependent under the retiree's state group health insurance plan at the time of retirement, or later if the retiree had designated the person for a later addition to the plan, with certain limits. The retiree is responsible for payment of the premiums for a spouse or dependent.

## **LEGISLATIVE RETIREMENT ISSUES**

**MAINE.** Public Law 2001, Chap. 657, provides that a legislator who is a public school teacher or an employee of the vo-tech system who takes a leave of absence to serve as a legislator, may make contributions to the Maine State Retirement System on the amount that represents the difference between the salary paid a legislator and the salary the legislator would have earned in the teaching job. This is for the purpose of preserving a higher level of compensation for the calculation of retirement benefits. State government will pay the employer share on the difference between the two salary levels.

## **RE-EMPLOYMENT AFTER RETIREMENT**

**ALASKA .** H.B. 254 (2002 *Alaska Session Laws Chap. 59*) creates an incentive for retired public employees to enter teaching by reducing the requirement for a TRS "conditional service benefit" from two years to one year. A retired PERS member will now be able to teach one year in a TRS covered position and earn a TRS pension benefit.

**ARIZONA.** S.B. 1095 (2002 *Ariz. Sess. Laws, Chap. 213*) extended provisions for returning to covered employment after retirement, previously scheduled to sunset on June 30, 2003. The law allows a retired member of the Arizona State Retirement System to return to work for one year at a negotiated salary with no loss of retirement benefits; the returning employee makes no contribution to ASRS and accrues no additional benefit.

**COLORADO.** SB 145 allows small school districts (those with fewer than 4,500 students) to declare a critical shortage of teachers, which permits retired members of the Public Employees' Retirement Association (PERA) to return to teaching full time without reduction of retirement benefits. The resolution can be renewed annually. The legislation goes out of effect on July 1, 2005.

**DELAWARE.** S.B. 439 (*73 Del. Laws, C430*) allows pension beneficiaries of the State Employees' Pension Plan to be employed by the state in a temporary, casual, seasonal or substitute position without an earnings limitation or loss of pension benefits.

**GEORGIA.** H.B. 210 allows a retired member of the Teachers' Retirement System of Georgia who retired prior to January 1, 2002 with at least 30 years of creditable service or after attaining age 60 to return to full-time service as a "classroom teacher" or "improvement specialist" without losing his or her retirement benefits. The retiree can return to service no longer than five years; the retiree will not retain tenure as he or she had prior to their retirement; and, the retiree shall not be considered an active member TRSGA. A public school system employing a retiree under this provision must pay all employer contributions to TRSGA as if the retiree was an active member of TRSGA. The provisions of this bill would sunset on July 1, 2008.

**GEORGIA.** S.B. 100 provides that the retirement benefits of a member of the Peace Officers' Annuity and Benefit Fund who has attained the age of 55 and has at least 30 years of creditable service will not be affected if he or she continues or returns to service as a peace officer.

**GEORGIA.** H.B. 931 allows persons who retired on a normal service retirement with at least ten years of service as an officer of the Uniform Division of the Department of Public Safety to return to service and continue to receive retirement benefits if he or she accepts full-time or part-time employment with the Department of Public Safety or the Department of Motor Vehicle Safety as a radio operator or a driver's license examiner. A retiree who goes back to work will not be eligible for employee benefits. Employer or employee contributions will not be paid to the Employees' Retirement System (ERS). This provision will cease to apply on or after July 1, 2007.

**IOWA.** H.F. 2532 amends existing law to increase the amount, from \$14,000 to \$30,000, that an Iowa Public Employees Retirement System (IPERS) member who has a bona fide retirement and is under 65 years of age can earn in public employment covered by IPERS and still continue to receive the member's retirement allowance without a reduction. Current law provides that the retirement benefits of a retired IPERS member who is under age 65 will be reduced by 50 cents for each dollar the member earns in a calendar year in covered employment over the earnings limit.

**LOUISIANA.** H.B. 130 (Act 165) of the First Extraordinary Session of 2002 revised statutory provision regarding re-employment after retirement to close a loophole that would have allowed any state employee eligible for retirement to retire, be re-hired by the same employer, and after 12 months receive both full salary and full retirement benefits.

**MAINE.** *Public Law 2001, Chap. 699*, revises existing law to permit local government members of the Maine State Retirement System to return to covered service and keep both their pension and their full earnings. Retirees who do so will not earn additional retirement credit.

**OKLAHOMA.** H.B.2344 amended limits on earnings for retired members of the Teachers Retirement System who return to public school employment:

(1) Limits post-retirement earnings for retirees under age 62 years to \$15,000 or half final average salary, whichever is less, during the first 36 months after retirement; (2) Limits post-retirement earnings for retirees age 62 or older to \$30,000 or half final average salary for the first 36 months after retirement; (3) Allows classified members who have been retired for 36 months or more to earn up to \$30,000; (4) Extends post-retirement earnings limits to members who are hired to work for schools through corporations.

**VIRGINIA.** H.B. 1137 and H.B. 1320 change the conditions under which retired teachers are permitted to return to teaching without interrupting their retirement benefits by

- permitting return even if the retiree is receiving retirement benefits from an early retirement incentive program (prohibited under former law);
- specifying that such retirees must have been receiving retirement benefits for a period of at least 30 days before returning to a teaching position (subject to decision of the Joint Legislative and Audit Review Commission and the Board of Trustees of the Virginia Retirement System under former law); and
- requiring that the teacher be hired pursuant to a contract that does not exceed one year in duration.

**WEST VIRGINIA.** H.B. 4579 enables Teachers' Retirement System (TRS) members who retire between the effective date of this bill and December 31, 2002, to be employed by any institution of higher education without loss of retirement annuity, provided, that the TRS member may not participate in any other state retirement system. H.B. 4658 increased the amount of income a retiree may receive from temporary state employment from \$10,000 to \$15,000.

## **RETIREMENT ELIGIBILITY**

**MARYLAND.** S. B. 337 allows active members of the Employees' Pension System (EPS) or Teachers' Pension System (TPS) to combine any such service with any service in the "old" Employees' Retirement System (ERS) or Teachers' Retirement System (TRS) if the member has a combined total of at least 30 years of service. The service is combined solely for the purpose of service retirement eligibility; benefit calculations would still be based on each component of the service and the applicable benefit formula, with the applicable average final compensation for each component. [Before this enactment, benefits were calculated separately for members who had accrued service credit under separate systems].

**WASHINGTON.** S.B. 6381 revises vesting requirements for inactive members of the Public Employees' Retirement System Plan 1. Current provisions differ by five years depending on whether a member is active (age 60) or inactive (age 65) at the time of retirement. This bill allows inactive members with at least 20 years of service who separate after reaching age 50 to retire at age 60 without a reduction in benefits. The member must have separated from state service on or after January 1, 2002.

**WEST VIRGINIA.** S.B. 652 stipulates that anyone becoming a new member of the Public Employees' Retirement System on or after July 1, 2002, must have five or more years of actual, contributory service to receive a deferred annuity benefit at age 62.

## **SERVICE CREDIT/PURCHASE OF SERVICE/TRANSFER OF CREDIT**

**ALABAMA.** H.B. 169 permits purchase of service credit in the Teachers' Retirement System for time spent on approved medical leave (up to one year), full-time employment with the Alabama Legislature (no more than 10 years) and up to four years for employment with a subsidiary affiliate organization of an employer that has continually participated in the system since its inception.

**CONNECTICUT.** S.B. 635 (*Public Act 02-117*) broadened the opportunity for teachers to purchase service credit in the Connecticut Teachers Retirement System for part-time service.

**DELAWARE.** H.B. 451 (*73 Del. Laws, C373*) allows police officers who become members of the New State Police Pension Plan to buy service credit for other police service at their own expense.

S.B. 403 (*73 Del Laws, C419*) provides that all salary paid to an employee for all days worked will be used in the calculation of final average compensation.

**GEORGIA.** H.B. 765 allows members of the Teachers' Retirement System to obtain creditable service for a maximum of ten years for service as a teacher in an accredited private elementary or secondary school or any private college or university located in the state. A member must have at least five consecutive years of membership with the Teachers Retirement System of Georgia, after which he or she can then establish one year of credit for private school service for each additional year of membership service. Members must pay the board the amount as determined necessary to grant the benefit without creating any accrued actuarial liability to the system.

**GEORGIA.** S.B. 62 provides for a maximum of two years military service credit for any member who served an uninterrupted period of active duty in the armed forces which began during any period in which a military draft was in effect. A member will be required to pay the regular employee contributions plus interest. The deadline for applying for the credit is December 31, 2003.

**GEORGIA.** H.B. 955 allows members of the Teachers Retirement System who have accrued at least 25 years of creditable service to obtain up to three years of additional creditable service. To obtain such credit, members must pay the board of trustees an amount determined by the board sufficient to cover the full actuarial cost for granting the creditable service.

**IOWA.** H.F. 2532 provides that an Iowa Public Employee Retirement System (IPERS) member who was furloughed between January 1, 2002, and June 30, 2003, can have the member's covered wage for purposes of determining IPERS retirement benefits recalculated based upon the salary the member would have received if the member had not been furloughed, if the member pays an amount to IPERS equal to the employer and employee contributions that would have been made on that portion of the salary lost due to the furlough.

**IOWA** H.F. 2532 also provides for the purchase of service credit for employment in the private sector. A member of IPERS may purchase additional service credit under IPERS for both qualified and nonqualified service. "Qualified service" is defined as service with a governmental employer, an association representing employees of the government, and an educational organization that provides elementary or secondary education, in which the member does not receive a retirement benefit for that service. "Nonqualified service" is defined to include all kinds of service not defined as qualified service. The act provides that a member must be a vested or retired member under IPERS with five years of wages in order to purchase service credit for nonqualified service. The purchase is limited to a maximum of five years.

**KENTUCKY.** H.B. 309 requires that employees be vested in the Kentucky Retirement Systems before purchasing most types of service credit, with the goal of reducing employer liabilities for insurance benefits by preventing short-term employees from purchasing large amounts of retirement service (source: H.B. 309 Actuarial Cost Analysis).

H.B. 309 also allowed vested members of the Kentucky Employee Retirement System and certain other state systems to purchase any amount of military service credit regardless whether the person is eligible for a military pension. Participating employees over the age of 65 with at least 15 years of service may purchase up to four years' worth of active-duty service credit at 50 percent of the actuarial cost. All other purchases are at actuarial cost.

**MINNESOTA.** Chapter 392, Laws of 2002, Article 2, provides that an MN State Retirement System, Public Employees Retirement Association or Teachers Retirement Association member may obtain service credit for time the member was on strike, up to one year. An employee may obtain this credit by paying an amount equal to the employee and employer contributions, plus interest. If payment is not made within one year, the purchase price is the full actuarial value of the service credit purchased. The article is retroactive to July 1, 2001, and expires a year after enactment.

Chap. 392, Article 14, expands current law under which state employees can receive pension service credit, health insurance, and other benefits during an unpaid leave of absence. Under current law, the provision applies for 160 hours during the period ending June 30, 2005. The new provision applies to leaves up to 320 hours during the period ending June 30, 2003, and an additional 160 hours from July 1, 2003 to June 30, 2005.

Article 14 also permits a member of Public Employees Retirement Association to purchase service credit for specified out-of-state teaching service.

**WEST VIRGINIA.** H.B. 4658 allowed part-time Legislative employees to receive a full year credit for past part-time service after having worked for thirteen consecutive years.

## **STUDIES**

**GEORGIA.** Senate Resolution 522 creates a committee to study the benefits of early teacher retirement on public education in Georgia, as well as the conditions, needs, issues and problems associated with early retirement. The committee will be composed of ten members and may report its findings and recommendations on or before December 31, 2002.

**IOWA.** H.F. 2532 requires the Iowa Public Employees Retirement System to conduct two studies and to file a report with the Legislative Service Bureau by October 1, 2003, concerning its findings and recommendations. One study concerns the possible implementation of a cost-neutral deferred retirement option program (DROP) for members of the system. The other study is to consider the possible implementation of a new option for vested employees who terminate employment prior to retirement to have their refund amount rolled over into an individual account under IPERS.

**MAINE.** *Public Law 2001, Chap. 707* established the Task Force to Study Methods of Addressing Inequities in the Retirement Benefits of State Employees and Teachers to study specified issues and to report to the Labor Committee in the 2003 legislative session.

**WEST VIRGINIA.** HCR 25 requests that the Legislative Joint Retirement Committee study the possible development of a single uniformed services public employee plan. HCR 50 requests that the Legislative Joint Retirement Committee study the possibility of an annual COLA for the public employees' and the teachers' retirement systems. HCR 47 requests a study of the feasibility of providing a state and county assisted retirement program for volunteer firefighters and volunteer emergency medical service personnel.

## **TAXATION**

*For details on state tax changes, see the National Conference of State Legislatures' report, State Tax Actions, 2002, forthcoming.*

**GEORGIA.** The retirement income exclusion was increased from \$14,000 to \$14,500 for tax year 2002 and to \$15,000 for tax year 2003 for all taxpayers who are 62 years of age or older, or are totally and permanently disabled.

**NEW JERSEY.** Continues phasing in the exclusion of retirement income from taxable income.

**WISCONSIN.** The exclusion of military pension income from state income taxation, enacted in 2001, is effective for tax year 2002.

## **VESTING**

**INDIANA.** S.B. 269 (2002 *Ind. Acts*, P.L. 73) reduces the vesting requirement in the Public Employees Retirement Fund for certain constitutional officers subject to term limits that would prevent their compliance with previous vesting requirements. A county clerk, auditor, recorder, treasurer, sheriff, or coroner is vested in PERF after: (1) eight years of service in that office; or (2) ten years of service based on a combination of service as an elected county official and as a full-time employee in another covered position. A person serving as the secretary of state, state auditor, or state treasurer is vested in PERF after eight years of service. A person who has served eight years as an elected county official is eligible for normal retirement at 65 years of age.

## **WITHDRAWN CONTRIBUTIONS**

**OHIO.** S.B. requires the Ohio State Teachers Retirement System to pay additional amounts to a members with five or more full years of service credit who withdraws contributions. The additional amount is to be the interest on the member's accumulated contributions plus 50 percent of the member's employee contributions.