

## **Why does the North Carolina Retirement System say that your benefit is secure if you are a retiree or a vested active employee?**

The North Carolina Retirement System regularly tells retirees and vested employees that their benefits are guaranteed. An employee is vested once he has five years of membership service. This means that the State of North Carolina may not reduce the size of retirement benefits paid to retirees, the State is required to continue allowing vested employees to accrue retirement benefits, even if the retirement benefits offered to new and non-vested employees change, and the State is required to continue paying retirement benefits to all eligible members.

### **Contractual Rights**

A series of court cases, most notably *Faulkenbury v. TSERS* and *Bailey v. State of North Carolina*, have established that once state employees reach vested status, they have a contractual right to their retirement benefits. Once an employee reaches vested status, the employee maintains the right, in perpetuity, to continue earnings benefits under whatever benefit formula was promised to the employee at that time.

### **Comparisons with the Private Sector**

The court precedents governing North Carolina public employee rights to retirement benefits differ from the precedents governing private sector employees. Private sector employers do not have a contractual obligation to provide any retirement benefits except those benefits accrued already (based on service and compensation earned to date). Private sector employees do not retain a right to continue accruing benefits in the future.

### **Comparisons with other Public Sector Employees**

The court precedents governing North Carolina public employee rights to retirement benefits also differ from the precedents governing Federal employees and public sector employees in other states. These precedents vary widely. In some instances, other public employees retain the same rights as North Carolina public employees. In other instances, the precedents more closely parallel private sector precedents.

### **What the Contractual Obligation Does Not Mean**

Although retirees and vested employees retain a contractual right to their retirement benefits, new employees and non-vested employees do not. For new employees and non-vested, the State retains the right to alter its retirement plan provisions at its discretion. Large-scale plan changes, however, occur very rarely. The multiplier has never been reduced, nor the final averaging period lengthened, nor the retirement age increased, even for non-vested members.

### **Additional Guarantees**

Finally, for all members benefits are secure because the Retirement System's Trust Fund has significant assets and because the State has taxing powers. Even at the end of 2008, the Trust Fund had sufficient assets to pay benefits for 15 more years, even if those assets earned no investment return and no additional contributions were made to the Fund. If, somehow, the Retirement System's Trust Fund was insufficient to cover the Retirement

System's liabilities, the State has the ability and the responsibility to appropriate additional funding from the state budget to cover the shortfall. One way or another, retirement benefits will be paid.