

# 10-Month Pay Over 12 Months?

Faculty Affairs Committee Report

For

Faculty Senate

Valdosta State University

March 28, 2013

# Topics

- Why we are looking at this
- What Georgia College Faculty Senate learned when they pursued the question
- Federal tax ramifications
- What other states do
- University System Faculty Council Resolution
- Recommendations

# Why Are We Looking At This?

- A faculty member requested that we look at the possibility
- Faculty Senate Executive Committee remanded it to Faculty Affairs
- When asked, “Are you interested in the option to have your 10-month pay spread out over 12 months?”, 78% of faculty answered “yes”
  - 229 survey responses
  - 178 responded “YES”



**What Georgia College & State University  
Faculty Senate  
Learned About the  
10-Month Pay Over 12 Months Issue**

## ***Question:***

***Why can't we pay faculty on 10-month contracts over a 12-month period?***

- Georgia College & State University Ten-Month Faculty Pay Q & A
- See entire document at:
  - [http://info.gcsu.edu/intranet/univ\\_senate/BPC\\_0506/FacultyPayQ&ANov2005.htm](http://info.gcsu.edu/intranet/univ_senate/BPC_0506/FacultyPayQ&ANov2005.htm)

# GCSU Answers Summarized

- Would violate Board of Regents Policy and State law
  - The State's fiscal year begins July 1.
  - If we transitioned to a fiscal year pay or 12-month pay process, August through July, we would be obligating funds from two different fiscal years.
  - State law does not allow the obligating of future funds since the funds are not guaranteed.\*
  - The Board of Regents does not allow payment in advance of work performed

\*See next 2 slides for what we found out about this

# Georgia Law Section 45-12-89

Dated 12/03/01

- At the end of each fiscal year, the amount of each appropriation provided for in this part, except for the mandatory appropriations required by the Constitution of Georgia, **remaining unexpended and not contractually obligated in writing** shall lapse and cease to be available;
- and the state treasury shall not pay any **unallotted** appropriations and shall make the necessary adjustments in its appropriation accounts to charge off the amount of the lapsed appropriations.
- All appropriated funds, except for the mandatory appropriations required by the Constitution of Georgia, remaining unexpended and not contractually obligated at the expiration of the General Appropriations Act shall lapse.

[http://webdb.gsu.edu/policies/policy\\_index.cfm?view\\_policy=4151](http://webdb.gsu.edu/policies/policy_index.cfm?view_policy=4151)

[http://sacs.kennesaw.edu/sacs.kennesaw.edu/ga/www.legis.state.ga.us/cgi-bin/gl\\_codes\\_detaile30a.html?code=45-12-89](http://sacs.kennesaw.edu/sacs.kennesaw.edu/ga/www.legis.state.ga.us/cgi-bin/gl_codes_detaile30a.html?code=45-12-89)

# However . . . Valdosta City Schools

## **SALARIES PAID OVER 12 MONTHS**

- Salaries for employees who work less than 12 full months will be divided over a 12-month period (September through August).
- A teacher's salary is earned by working 190-contract days, August through May.

<http://www.gocats.org/content/resources/c839/misc/salary%20sch%20fy2012.pdf>



## ***Question:***

***Could we be paid in ten payments, with the last check covering 3 months, instead of 10 equalized payments?***

- The Board of Regents has instructed all institutions in the University System of Georgia (USG) to pay 10-month faculty in 10 monthly payments equal to  $1/10$  of the contracted salary
- As a result of that decision, the USG's financial software system, PeopleSoft Financials, was designed to pay 10-month faculty in 10 equal payments over a 10 month period.

## *Question:*

*What is involved in getting the USG to change PeopleSoft?*

- All of the universities would have to agree to the proposed change
- In regard to the issue at hand, changing PeopleSoft is a moot point, as the BOR will not approve the change.

# Management of Summer Cash Flow

- [http://info.gcsu.edu/intranet/human\\_res/updates.html](http://info.gcsu.edu/intranet/human_res/updates.html)

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- [State of Georgia Business Transactions Disclosure Form](#) (Word document)
- Read the university's latest policy on [Sexual Harassment](#) (Word document)
- [Solving the 10-month Faculty Check Dilemma](#) (Power Point Presentation)
- [10-Month Faculty Summer Budget Worksheet](#) (Excel document)
- Complete your timesheets [online](#). This new feature even calculates the hours for you. Please remember that you are responsible for submitting your timesheet to Payroll with the original signatures by the due date.
- [The Georgia Higher Education Savings Plan](#) is available by payroll deduction for parents or grandparents saving for a child's college costs.
- [University System of Georgia Policy Manual Revisions](#) includes updated rules on hiring retirees, minors and foreign nationals.
- [Current Employment Listings](#)

**Office of Human Resources**  
Campus Box 28 | Milledgeville, GA 31061  
Phone (478) 445-5506 | Fax (478) 445-0401

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# Federal Tax Ramifications

- Section 409A of the Internal Revenue Code became law effective 2008-09.
- Faculty members run the potential risk of additional tax liability if they
  - Are paid under a 10-month contract
  - Have the option as a matter of institutional policy to be paid over 12 months
  - Elect the 12-month payment option

# Safe Harbor Rule

- IRS Notice 2008-62 set forth a safe harbor rule that, if met, will cause the deferral created by the annualized pay arrangement not to be treated as “deferred compensation”
  - The arrangement must not defer payment of any of the part-year compensation beyond the 13<sup>th</sup> month following the beginning of the service period; and
  - The arrangement must not defer from one taxable year to another an amount in excess of \$15,500
- Also, does not seem to be a problem as long as the employee signs a document stating that they want the 12-month option and are aware that they cannot change their mind mid-way through the year (similar to other “cafeteria” options).

# What About Other States?

- A Few Examples:
  - North Carolina G.S. 115C-302.1(b) (state law) provides that teachers may be paid in 12 monthly installments instead of 10.
  - Wayne State University (Detroit) allows it
  - University of Maryland allows it
  - Pittsburg State (Kansas) allows it
  - University of Arizona allows it
  - Many others . . . .

<http://www.docstoc.com/docs/5722551/Fact-Sheet-Months-Pay-Provision-for-Salary-Spread-over>

[http://fisops.wayne.edu/payroll/deferred\\_compensation\\_qa.pdf](http://fisops.wayne.edu/payroll/deferred_compensation_qa.pdf)

<http://cf.umaryland.edu/umpolicies/usmpolicyInfo.cfm?polid=38>

<http://www.pittstate.edu/office/hr/employee-benefits/nine-pay-twelve-payment-option-for-9-month-faculty.dot>

[http://www.hr.arizona.edu/9\\_12\\_pay\\_plan\\_option](http://www.hr.arizona.edu/9_12_pay_plan_option)

# University System of Georgia Faculty Council Meeting February 12, 2012

- Resolution:
  - Allow 10-month-contract faculty and staff the option to be paid over a 12-month period
- Dr. Dowling noted that the human resources directors group says they cannot pay in August (new fiscal year) for work done ending in July (previous fiscal year).
- Dr. Dowling noted funds could be encumbered

<http://www.fvsu.edu/files/pdf/Faculty-Senate-USGFC-Resolutions-Feb-25-2012.pdf>

## Summary: 10-Month Pay over 12 Months

- Majority of VSU faculty who responded to survey are interested in the option
- Other USG institutions have looked into it
- Other states allow it
- May be allowable by Georgia law since K-12 schools are doing it (is there an actual statute disallowing it???)
- It is against current BOR policy
- There could be federal tax ramifications
- The USG Faculty Council has already made a resolution



# Recommendations

1. Faculty Affairs recommends that VSU's Faculty Senate agree with the USG Faculty Council resolution of February 12, 2012:

**Allow 10-month-contract faculty and staff **the option** to be paid over a 12-month period**

2. If Recommendation 1 is passed, the Faculty Affairs Committee recommends that the resolution be moved forward by the Provost to the statewide Provost Committee for further action.