SB 497

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 497 (Senator Jones-Rodwell, *et al.*)

Budget and Taxation Appropriations

Employees' Retirement and Pension Systems - Reemployment of Retirees - Parole and Probation Employees

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This bill exempts a reemployed retiree of the Employees' Retirement System (ERS) or Employees' Pension System (EPS) from a retirement allowance reduction if the retiree is reemployed as a contractual parole and probation officer for up to four years. It includes a related reporting requirement for the Secretary of Public Safety and Correctional Services.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Potential minimal increase in pension liabilities and annual contribution rates, to the extent that current active parole and probation officers retire earlier than they otherwise would. The Department of Public Safety and Correctional Services can prepare the mandated annual reports with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Reemployment Benefit Reduction: In general, retirees who receive a retirement benefit from the State may be reemployed. In most cases, however, their benefit payment is subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. For members who retire directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction, which is calculated as follows:

Benefit Reduction = [Current annual compensation] + [Initial annual retirement allowance] – [Average final compensation (AFC) at retirement].

As an example, if a member retires with an AFC of $60,000 and an initial benefit of $32,400, and is rehired with an annual salary of $50,000, the offset is equal to:

$50,000 + $32,400 - $60,000 = **$22,400**.

The retiree's annual benefit therefore becomes $10,000 ($32,400 - $22,400), which makes the retiree's total income the same as AFC at the time of retirement ($60,000).

Under specified conditions, teachers, principals, correctional officers, health care providers, and State Troopers are exempt from the benefit reduction for reemployment with their former employers.

The Division of Parole and Probation (DPP): DPP provides offender supervision and investigation services. DPP's largest workload involves the supervision of probationers assigned to the division by the courts. DPP also supervises inmates released on parole by the Parole Commission or released from the Division of Correction because of mandatory release. Offenders can also be placed under DPP supervision through assignment by drug courts or by the courts for driving while intoxicated or driving under the influence.

State Fiscal Effect: The fiscal 2012 appropriation for the Division of Parole and Probation includes 1,250 positions, which constitutes 2.0% of the total active membership of ERS/EPS.

It is difficult to predict how many ERS/EPS retirees will opt to be reemployed. Under a similar reemployment program for correctional officers that has been in effect for five years, fewer than 10 retirees have been reemployed annually. The number of retired teachers and principals taking advantage of their limited exemption from the benefit offset has been steadily declining for the last five years, with only 38 retired teachers and principals electing to be reemployed with their prior employer during the 2010-2011 school year.

Exemptions from benefit offsets can increase pension liabilities in two ways. First, reemployed retirees who are exempted from the benefit offset continue to receive full benefit payments instead of having their benefits reduced as dictated by current law. In most cases, when benefit payments are larger than expected, the difference between the expected benefit and the actual benefit is recognized as an actuarial loss in the annual valuations conducted by the system's actuary. However, the State Retirement Agency has consistently advised that its actuary does not recognize foregone offsets in its annual valuations, so there is no effect on State pension liabilities or contribution rates. Nevertheless, the exemption provides a meaningful financial benefit to reemployed retirees.

Second, the purpose of the reemployment offset is to dissuade a member from retiring with the knowledge that he or she can be reemployed in the same job and still collect a full retirement benefit. The offset reduces total income from the combined retirement benefit and salary to what the member would receive if he or she remained employed. By eliminating the offset, the bill may encourage an active ERS/EPS member to retire earlier than he or she normally would. By being reemployed with a full retirement benefit, the individual may substantially increase his or her annual income. An earlier-than-planned retirement increases State pension liabilities because it requires the State Retirement and Pension System to make a benefit payment over a longer period of time than expected. Those increased liabilities are recognized as actuarial losses in annual valuations and may contribute to increased pension contributions for the State.

As noted above, DPP has approximately 1,250 employees who are members of ERS/EPS. It is not known how many of those individuals are eligible or nearly eligible for retirement. Nevertheless, it is possible that a substantial number of those individuals may retire earlier than they otherwise would and choose to be reemployed with the exemption provided by the bill, thereby increasing their annual compensation. The experience with correctional officers, teachers, and principals indicates that few individuals take advantage of the financial advantages provided by the exemption from the offset, but the potential exists, given the large number of DPP employees, that a meaningful number choose to do so as a result of the bill.

For illustrative purposes only, the General Assembly's consulting actuary advises that if 100 EPS/ERS members retire one year earlier than planned in order to take advantage of the exemption from the benefit offset, State pension liabilities increase by an estimated $276,000.

Additional Information

Prior Introductions: None.

Cross File:HB 630 (Delegate Haynes, *et al.*) - Appropriations.

Information Source(s): Department of Public Safety and Correctional Services, Maryland State Department of Education, State Retirement Agency, Department of Legislative Services

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