SB 221

Department of Legislative Services

Maryland General Assembly
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FISCAL NOTE
Revised

Senate Bill 221 (Senator Kasemeyer)
(Chairman, Joint Committee on Pensions)

Budget and Taxation Appropriations

State Retirement and Pension System - Reemployment of Retirees

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This pension bill exempts retirees of the employees', teachers', and correctional officers' systems of the State Retirement and Pension System (SRPS) from the reemployment earnings limitation if they are reemployed by an employer other than the one from which they retired. The State is treated as a single employer. The bill also exempts from the earnings limitation retired health care practitioners who are reemployed by the Department of Health and Mental Hygiene, even if the reemployed practitioners had retired from the State. The bill also makes certain other changes to the pension reemployment rules.

The bill takes effect July 1, 2001. The exemption for reemployed health care practitioners sunsets on June 30, 2004.

Fiscal Summary

State Effect: Potential increase in State employer pension contributions could increase if employees' and teachers' system members retire earlier than anticipated because of the absence of the reemployment earnings limitation. (*For illustrative purposes only,* annual retirement expenditures could increase by $3.0 million for each month that the average age of retirement decreases.) Any such increase could be partially offset by reduced recruiting and training costs due to utilization of reemployed retirees.

Local Effect: Employer pension contributions for local governments that participate in the State Retirement and Pension System (SRPS), could increase if employees' system members retire earlier than anticipated because of the absence of the reemployment earnings limitation. Any such increase could be partially offset by reduced recruiting and training costs due to utilization of reemployed retirees.

Small Business Effect: None.

Analysis

Bill Summary: Retirees of the Employees' Retirement System (ERS), Employees' Pension System (EPS), Teachers' Pension System (TPS), Teachers' Retirement System (TRS), and Correctional Officers' Retirement System (CORS) become subject to the reemployment earnings limitation only if they are reemployed by the same employer from which the individual retired. Members who retire with an early retirement allowance are required to wait 12 months before becoming reemployed or be subject to the earnings limitation.

Retirees of the EPS and TPS become exempt from the earnings limitation even if they are reemployed by the same employer from which they retired if they were retired for more than ten years.

The bill also exempts from the reemployment earnings limitation -- on a temporary basis -- a retiree of the ERS or EPS who is reemployed on a contractual basis by the Department of Health and Mental Hygiene (DHMH) as a health care practitioner in: (1) a State residential center; (2) a chronic disease center; (3) a State facility; or (4) a local health department. The Department of Health and Mental Hygiene must notify the State Retirement Agency of any retirees who qualify for the exemption. These retirees are also exempted from the 2% overall limit on reemployment of State employees who accepted the early retirement incentive under Chapter 353 of 1996 or Chapter 736 of 1997, which provided a similar incentive to certain employees laid off from the Great Oaks Center. This exemption from the earnings limitation applies even if the retiree had retired from DHMH and is reemployed by DHMH.

The bill also restructures the new and existing reemployment provisions to provide greater clarity and comprehensibility.

Current Law: Retirees of these four systems who receive a service retirement allowance or vested allowance may return to temporary, contractual, or permanent employment with a participating employer of the State Retirement and Pension System (SRPS). Current law, however, requires a reduction in the retirees' allowance dollar for dollar by the amount any earnings from such a participating employer exceed the difference between the retirees' basic allowance at time of retirement and the retirees' average final salary, with certain exceptions (listed below).

As an example, assume that an EPS member retires with 30 years of service effective July 1, 2000. The member's average final salary at time of retirement was $40,000 and the basic annual allowance is $15,000. The member then returns to employment. The reemployed member's annual compensation for calendar 2001 is $32,000. The earnings limitation, the difference between the average final salary and the annual basic allowance, is $25,000. The retiree has exceeded the earnings limitation by $7,000. The retirement agency must reduce future payments to this retiree by $7,000.

Under current law as well as under the bill, retired members do not accrue additional pension service credit if they are reemployed with a participating employer. They do, however, receive their retirement benefit simultaneously with their reemployment salary.

Current Exemptions from Earnings Limitation

Within the employees' and teachers' systems, there are several existing exemptions from the earnings limitation for retirees meeting certain conditions. The pension systems' exemptions from the earnings limitation apply to the following retirees:

- an individual whose average final compensation was less than $10,000 and who is reemployed on a temporary or contractual basis;

- an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

- a retiree of the Teachers' Pension System who meets certain performance standards and retirement criteria and who is reemployed as a classroom teacher or teacher mentor in a reconstitution-eligible school or in an area of teacher shortage (sunsets June 30, 2004); and

- a retiree of the Teachers' Pension System who was a school principal prior to retirement meeting certain performance standards and retirement criteria and who is reemployed as a principal (sunsets June 30, 2004).

The retirement systems include the above exemptions above as well as the following additional exemptions:

- an individual who has been retired for more than ten years;

- a retiree of the Teachers' Retirement System who retired and was reemployed by a participating employer other than the State on or before September 30, 1994, and whose employment compensation does not derive, in whole or in part, from State funds; or

- a retiree of the Teachers' Retirement System who retired from a board of education or local school system and who is reemployed in a part-time position with the University System of Maryland (sunsets June 30, 2001).

Background: For many years after the establishment of the Teachers' Retirement System (1927) and the Employees' Retirement System (1941), there were no provisions in the law concerning reemployment of retirees. The systems required 35 years of service for retirement and benefits were low, so most individuals were required to work for as long as possible. Second careers or working after retirement were generally not viable issues because life expectancy after retirement was relatively short. If such issues arose, they were dealt with through individual personnel decisions, not pension law.

In 1983 statutory restrictions were placed on permanent employment after retirement. A retiree of the employees' and teachers' systems who became reemployed in a permanent position was restored to membership in the appropriate system and the retiree's pension was canceled. Previous service was restored to the appropriate system, and additional service credits and benefits were earned. Monies received during the retirement period had to be repaid or the subsequent pensions were actuarially reduced. An earnings limit was also imposed on retirees of all four employees' and teachers' systems who accepted contractual employment with a participating employer.

In 1994 (Chapter 6) the harshest provisions of the law relating to reemployment were eliminated. Retirees are no longer restored to membership if employed in a permanent position. Like retirees who are employed in a temporary or contractual position, retirees working in a permanent position draw a pension but are subject to an earnings limitation.

Prior Legislation

Chapter 518 of 1999 and Chapter 245 of 2000, for classroom teachers and principals respectively, created exemptions from the earnings limitation under certain circumstances in order to address statewide teacher and principal shortages. While the exemption for classroom teachers speaks to a targeted set of schools and jurisdictions, the Maryland State Department of Education subsequently certified all 24 jurisdictions as having teacher shortages, effectively eliminating the earnings limitation for all teachers' system retirees who return as classroom teachers. This exemption from the limitation, however, expires when the bill sunsets on June 30, 2004. The exemption for principals also expires on June 30, 2004. The State Department of Education advises that approximately 500 teachers are currently utilizing the exemption in calendar 2000.

Other States

In 1998 the State Retirement Agency surveyed the other 49 state public employee pension systems on the reemployment issue. Almost all of the responding systems place some type of restriction on reemployment with a participating employee or prohibit reemployment after retirement altogether. Many systems suspended the retirement benefit entirely during reemployment. A smaller number of systems cancel the pension benefit and restore membership. The smallest group of respondents, including Maryland, offset the pension benefit (instead of suspending the entire pension) based on an earnings limitation.

Federal Tax Issues

The State Retirement Agency's tax counsel advises that the State's federal tax qualification status could be jeopardized if the State or other participating employer provides an "in-service" distribution, i.e. pays a salary and pension benefit simultaneously to an employee who does not meet certain requirements specified by the Internal Revenue Service (IRS). The tax counsel advises that the provisions of this bill -- including application of the earnings limitation for 12 months if the member takes an early retirement --satisfy the IRS's requirements for acceptable reemployment rules and continued tax qualification status.

State Expenditures: For wages earned in calendar 1999, the SRPS is currently offsetting the retirement benefits of 118 members of the four systems with a total offset amount of $381,000. Even if all the 118 members were no longer subject to the offset, the increase in pension benefit payments (because fewer earnings offsets would be enforced) and the resulting increase in employer pension contributions would be minimal.

More significantly, however, the State's actuary advises that if the absence of a reemployment earnings limitation encourages members to retire earlier than they otherwise would, SRPS actuarial liabilities will increase. There are approximately 69,000 retired members of the four employees' and teachers' systems. In addition, there are approximately 6,500 active members of the four systems who -- based solely on years of service -- are eligible for immediate full retirement. (There are an indeterminate number of additional members eligible based on age, or eligible for early retirement based on age or years of service.) It cannot be reliably estimated how many of these retired or soon-to-retire members would seek reemployment if the current limitations were removed under the above circumstances.

For illustrative purposes, the State's actuary informally estimates that if earlier retirement patterns by teachers' and employees' systems members causes the average age of retirement of a member to decrease by one year, the additional normal cost and unfunded liabilities to the system would increase employer contributions by approximately $35 million per year. This is an outside cost estimate; any smaller reduction in the retirement age, however, would result in a proportionate increase in State costs.

The Retirement Agency advises that it may experience a minor increase in administrative costs in tracking the additional retirees reemployed under this proposal, and in verifying that these retirees are not subject to the earnings limitation. Legislative Services advises that it is more likely that agency administrative expenditures will decrease because fewer retirees would be subject to the offset.

Offsetting the potential increase in actuarial costs could be reduced recruiting and training costs due to utilization of reemployed retirees, particularly in areas of staff shortages. For example, DHMH advises that there are 3,490 health care practitioner positions as of January 2001 and that about 10% (349) are vacant with significantly higher levels of vacancies for certain practitioners such as nurses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Retirement Agency; Milliman & Robertson, Inc.; Department of Legislative Services

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