HB 1153

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1153 (Delegate James)
Appropriations

Retirement and Pensions - Reemployment of Retirees

This pension bill specifies circumstances under which retired teachers, principals, supervisors of principals, and health care practitioners in State facilities may be rehired without an earnings limitation and extends the sunset dates for provisions of State pension law that permit teachers, principals, supervisors of principals, and health care practitioners in State facilities to be reemployed by county boards of education or the Department of Health and Mental Hygiene (DHMH) under specified circumstances without being subject to an earnings limitation.

The bill is effective July 1, 2004 and applies prospectively. With the additional specified restrictions, sunsets for the existing four provisions are extended through June 30, 2008.

Fiscal Summary

State Effect: State pension liabilities could increase by $18.1 million due to changes in teacher retirement patterns, resulting in increased annual State teacher pension contributions of $1.1 million in FY 2006 (general funds). Out-year costs reflect actuarial assumptions. General fund expenditures could increase $25,000 in FY 2005 for reporting requirements.

($ in millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	$0	$0	$0	$0	$0
GF Expenditure	0	1.1	1.2	1.2	1.3
Net Effect	($.0)	($1.1)	($1.2)	($1.2)	($1.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: No impact on local pension costs because teacher pension costs are paid by the State. Local boards of education may experience a minimal decrease in recruitment and training costs from the continued use of reemployed retirees.

Small Business Effect: None.

Analysis

Bill Summary: The bill extends the sunsets of Chapter 518 of 1999, Chapter 245 of 2000, and Chapters 732 and 733 of 2001; adds to the requirements that retirees of the Teachers' Retirement System (TRS) and Teachers' Pension System (TPS) must meet in order to be rehired without an earnings limitation under these provisions; and requires specified reports on the rehire programs from the Maryland State Department of Education (MSDE) and DHMH.

Classroom and Substitute Teachers, Teacher and Substitute Teacher Mentors

Retirees of TRS/TPS reemployed as a classroom teacher, substitute classroom teacher, teacher mentor, or substitute teacher mentor may only be rehired in a public school that:

- is not making adequate yearly progress (AYP) as defined by the federal No Child Left Behind Act and implemented by MSDE; and
- is teaching in a subject area that is critical for the school to meet AYP.

An individual may be rehired by a local school system in which every school in the school system is meeting AYP if:

- the individual is employed as a classroom teacher, substitute classroom teacher, teacher mentor, or substitute teacher mentor; and
- is employed in a school that is receiving funds under Title 1 of the No Child Left Behind Act teaching: (1) a core subject that has been identified by MSDE by regulation as a critical shortage area; (2) a special education class for students with special needs; or (3) a class for students with limited English proficiency.

Principals

Retirees of TRS/TPS who were principals may be rehired as principals at a public school that is not meeting AYP or by a local school system in which every school in the school system is meeting AYP at a public school receiving funds under Title 1.

The superintendent of the local school system reemploying the retirees of TRS/TPS is responsible for approving the reemployment. Superintendents are required to report reemployment of retirees of TRS/TPS to the State Board of Education (SBE) on or before

August 1 each year. The report is to include (1) the number of individuals rehired; (2) the location of the school where each individual is employed; (3) the subject matter taught by each individual; and (4) the annual salaries of each individual.

The salary of the reemployed retiree of TRS/TPS cannot exceed 70% of the retiree's salary at the time of retirement. The bill also requires a break of service of at least 60 days between the date of retirement and the date of reemployment.

The State Superintendent of Schools is required to report to the Joint Committee on Pensions on or before September 1 of each year. The report must include (1) the number of individuals rehired under the provisions of this bill; (2) the school and local school system where each individual has been rehired; (3) the subject matter taught by each rehired teacher, teacher mentor, substitute teacher, or substitute teacher mentor; and (4) the annual salary of each rehired individual at the time of retirement and the current annual salary of each rehired individual.

Certification, performance review, and other criteria in the existing chapter laws are continued.

Health Care Practitioners

The bill also extends the sunset for the contractual rehiring of retirees of the Employees' Retirement System (ERS) and the Employees' Pension System (EPS) as health care practitioners. The Secretary of Health and Mental Hygiene must report annually to the Joint Committee on Pensions. The report must include (1) the number of individuals rehired; and (2) the annual salary of each rehired individual at the time of retirement and the current annual salary.

Current Law: Retirees of TRS/TPS and ERS/EPS who receive a service retirement allowance or vested allowance return to employment with a participating employer of the State Retirement and Pension System (SRPS) may receive a reduction in benefits. Benefits are reduced dollar-for-dollar by the amount earnings exceed the difference between their average final salary and their basic allowance at the time of retirement. For example, a retiree who had a final average salary of $50,000 and who receives a pension benefit of $20,000 may earn up to $30,000 in reemployment (the difference between $50,000 and $20,000) without any offset. Any earnings over $30,000 will trigger a dollar-for-dollar reduction in the retiree's pension benefit. Under current law and the provisions of this bill, retired members do not accrue additional pension service credit if they are reemployed with a participating employer.

This limitation applies if the retiree is reemployed with the same employer from which the individual retired or if the retiree becomes reemployed within 12 months of receiving an early service retirement allowance.

Chapter 518 of 1999, Chapter 245 of 2000, and Chapter 732 of 2001 created exemptions from the earnings limitation for retired teachers, principals, and supervisors of principals (respectively) who are reemployed under certain circumstances. Each of the exemptions required that members retire with a normal service retirement or wait 12 months if they retire with an early service retirement. The member must have received a satisfactory or better performance review in the last assignment prior to retirement and continue to receive satisfactory or better evaluations to receive the exemption. The local boards of education must notify the State Retirement Agency of any retired members who qualify for the exemptions from the reemployment offset. SBE must notify the local boards of education as to which schools, counties, or subject areas meet the specified criteria discussed below.

Specific requirements for each exemption are as follows:

(1) for retired teachers (Chapter 518):

- certification to teach in the State;
- receipt of an appointment from the hiring board of education;
- reemployment as:
  - a substitute or permanent classroom teacher or teacher mentor in a public school that has been recommended for reconstitution or has been reconstituted; or
  - a substitute or permanent classroom teacher or teacher mentor in a county or subject area (statewide) in which there is a shortage of teachers, until the board finds that the shortage no longer exists.

(2) for retired principals (Chapter 245):

- employment as a principal within five years of retirement;
- based on the retiree's qualifications, has been hired as a principal;
- reemployment as a principal under the bill for no more than four years.

(3) for retired supervisors of principals (Chapter 732):

- employment as a principal not more than 10 years before retirement and in a position supervising principals in the last assignment prior to retirement;
- based on the retiree's qualifications, has been hired as a principal; and
- reemployment as a principal under the bill for no more than four years.

These exemptions were enacted to address statewide teacher and principal shortages. While the exemption for classroom teachers speaks to a targeted set of schools and jurisdictions, MSDE subsequently certified all 24 jurisdictions as having teacher shortages, effectively eliminating the earnings limitation for all teachers' system retirees who return as classroom teachers. All three chapter laws sunset on June 30, 2004.

Chapter 733 of 2001 created a temporary exemption from the earnings limitation for retired health care practitioners reemployed on a contractual basis by DHMH as a health care practitioner in a State residential center, chronic disease center, State facility, or county board of health. Chapter 733 also terminates on June 30, 2004.

Background: As shown in **Exhibit 1,** 950 teachers and principals were reemployed by local school systems during the 2002 − 2003 school year under the exemptions. Prince George's County has utilized the exception the most, reemploying 70% to 80% of the teachers and 50% to 60% of the principals employed under these provisions. In Prince George's County, 7.6% of all teachers are reemployed retirees. The exceptions are also widely used in Anne Arundel, Baltimore, and Frederick counties.

Exhibit 1

Retired Teachers and Principals Reemployed Under
Chapter 518 of 1999, Chapter 245 of 2000, and Chapter 732 of 2001

Local School System	2000 - 2001		2001 - 2002		2002 - 2003	
	Teachers Reemployed	Principals Reemployed	Teachers Reemployed	Principals Reemployed	Teachers Reemployed	Principals Reemployed
Anne Arundel	31	0	34	0	27	0
Baltimore City	34	1	4	1	0	0
Baltimore County	81	1	48	1	141	16
Frederick	20	5	29	5	57	0
Prince George's	467	12	583	12	610	18
All Other Systems	54	1	58	1	78	3
Total	**687**	**20**	**752**	**20**	**913**	**37**

Source: Maryland State Department of Education

As shown in **Exhibit 2**, DHMH filled 75 positions in fiscal 2003 under Chapter 733, with most positions filled by registered nurses, licensed practical nurses, community health nurses, and direct care assistants.

Exhibit 2

Retired Health Care Practitioners Reemployed Under Chapter 733 of 2001

Class Title	*Fiscal 2002*		*Fiscal 2003*	
	Employees	**FTEs**	**Employees**	**FTEs**
Registered Nurses	24	9.30	27	9.97
Licensed Practical Nurses	12	7.23	13	8.03
Community Health Nurses	12	6.95	12	4.59
Direct Care Assistants	10	4.82	9	4.80
Other Titles	9	2.76	14	4.78
Total	**67**	**31.06**	**75**	**32.17**

Source: Department of Health and Mental Hygiene

State Fiscal Effect: The Department of Legislative Services (DLS) expects that the sunset of the exemption would lead to a decline in the number of teachers that retire in their first year of eligibility. Teachers that retire sooner pay less employee contributions into the system and collect benefits from the system over a longer period of time. As shown in **Exhibit 3**, the percentage of teachers retiring from both TRS (7.7% annually) and TPS (11.5% annually) in the first year of eligibility has increased from 1998 − 2002. This pattern is in contrast to the pattern evidenced in ERS (-4.2% annually) and EPS (-1.5% annually) which have seen declines in the percentage of members retiring in the first year of eligibility. It is likely that the change in TRS/TPS retirement patterns is attributable to the exemption from the offset.

DLS estimates that if the exemptions sunset, the number of teachers retiring in their first year of eligibility will decline, returning to their patterns prior to enactment of exemptions. DLS estimates that a blanket extension of the sunset would cause a 20% decline in the rate of first-year eligible retirements from TRS and TPS, which is consistent with pre-exemption patterns. The total liabilities associated with the first-year retirement rates remaining inflated by the 20% estimate is $56.9 million. This bill would effectively add a portion of that liability cost back into the system.

Exhibit 3

Percentage of Members Electing Normal Retirement At First Year of Eligibility 1999-2002

	1998	1999	2000	2001	2002	Average Annual Change
Teachers' Retirement System	25.0%	28.4%	31.1%	33.5%	33.6%	**7.7%**
Teacher's Pension System	15.2%	18.8%	21.2%	25.5%	23.5%	**11.5%**
Employees' Retirement System	27.5%	27.9%	23.5%	24.0%	23.2%	**-4.2%**
Employees' Pension System	21.8%	25.0%	25.7%	26.4%	20.5%	**-1.5%**

Source: Milliman USA, Department of Legislative Services

DLS reviewed individual personnel data for Baltimore, Charles, Prince George's, and Wicomico counties to determine whether currently reemployed retirees would qualify under the bill. As illustrated in **Exhibit 4**, based on the sample of these four counties, approximately 68.6% of teachers rehired under the current earnings limitation exemptions have been rehired as classroom teachers in mathematics, science, social studies, English/language arts, teaching English as a foreign language, special needs teaching, and teacher mentoring. DLS assumes that these subjects are a reasonable approximation for subject areas required to meet AYP under No Child Left Behind.

DLS notes that the 70% salary restriction would further reduce the number of teachers willing to return to the classroom. DLS advises that if half of the teachers that currently come back in the subject areas discussed above (34.3% of the total reemployment population examined) the total liability to the system would be approximately $18.1 million. Amortizing the cost of those liabilities over a 25-year period would result in fiscal 2006 State contributions of $1.1 million. Out-year costs reflect actuarial assumptions.

Exhibit 4

Percentage of Rehired Teachers in Mathematics, Science, Social Studies, English, English as a Foreign Language, Title 1, and Teacher Mentors

Jurisdiction	Total Number of Rehired Teachers Reported	Number of Rehired Teachers Eligible Under Criteria Listed*	% of Rehired Eligible
Baltimore	165	107	64.8%
Charles	25	19	76.0%
Prince George's	224	170	75.9%
Wicomico	23	4	17.4%
Totals	**437**	**300**	**68.6%**

* Includes mentor teachers.

Source: Baltimore, Charles, Prince George's, and Wicomico County Boards of Education; Department of Legislative Services

DLS does not expect the removal of the exemption for health care practitioners seeking reemployment under the extension of Chapter 733 will lead to significant changes in patterns of ERS and EPS retirement behavior. To the extent that the termination of the exemption leads to an increase in the rate of first-year eligible retirees, State pension liabilities could increase. However, DLS notes that the rates for ERS and EPS are declining and that the number of members taking advantage of this exemption has been steady and small.

MSDE indicates that it will require $25,000 annually to hire a part-time contractual employee during the reporting period to collect data from local boards of education and compile the aggregate data.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Milliman USA, Maryland State Department of Education, Department of Health and Mental Hygiene, State Retirement Agency, Department of Legislative Services

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lc/mdr

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