

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

FISCAL AND POLICY NOTE

Senate Bill 692 (Senator Hollinger, *et al.*)  
 Budget and Taxation

Retirement and Pensions - Reemployment of Retired Teachers, Principals, and Health Practitioners

This bill specifies the circumstances under which retired teachers, principals, and health care practitioners in State facilities may be rehired without an earnings limitation (pension benefit offset).

The bill is effective July 1, 2005.

Fiscal Summary

**State Effect:** State pension liabilities could increase by \$17.9 million due to changes in teacher retirement patterns, resulting in a first-year cost (FY 2007) of \$1.1 million. Out-year costs reflect actuarial assumptions.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	1,067,900	1,110,600	1,155,000	1,201,200
Net Effect	\$0	(\$1,067,900)	(\$1,110,600)	(\$1,155,000)	(\$1,201,200)

*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. The reporting requirements of the bill impose administrative costs on the local school systems.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** This legislation exempts specified retirees of the Teachers' Retirement and Pension Systems and Employees' Retirement and Pension System with a normal service retirement from the earnings limitation.

*Retired Teachers:* The bill exempts from the earnings limitation a retired individual who is or has been certified to teach, in Maryland, English (including English as a second language), reading, math, science, a foreign language, civics and government, economics, history, geography, technology education, special education, or elementary education. The teacher must have performed at satisfactory or better levels in the teacher's last assignment prior to retirement. The individual must receive annual ratings of satisfactory or better while reemployed.

Exempt retirees may be rehired as a classroom teacher, substitute classroom teacher, teacher mentor, or substitute teacher mentor in a public school that:

- is not making adequate yearly progress (AYP) under the No Child Left Behind Act of 2001 (NCLBA);
- is receiving funds under Title I of NCLBA; or
- is providing an alternative education program for expelled or suspended public school students.

The reemployed retirees also must teach in a core subject that has been identified by the Maryland State Department of Education (MSDE) by regulation as an area of critical shortage, technology education, special education with special needs students, or students with limited English proficiency. Reemployed retirees may not teach in the arts.

*Retired Principals and Supervisors:* The bill exempts from the earnings limitation a retired individual who was employed as a principal within five years of retirement, or was employed as a principal not more than 10 years before retirement and as a supervisor of principals at retirement. The individual must receive annual satisfactory or better rating while reemployed. Finally, the individual may not be reemployed for more than four years.

A principal must be rehired at a public school that is not making AYP as defined under NCLBA, or is receiving Title I funds, or provides an alternative education program for expelled or suspended students.

Those who are reemployed as teachers and principals may not continue reemployment after the school makes AYP for more than three years after the school initially reached AYP. Furthermore, they may not be employed at a public school that is in the top 60% of public schools in the State in overall performance for the prior school year in reading and math, as calculated by MSDE.

The earnings limitation still applies to a retiree who retires on early service retirement for 12 months following date of retirement.

*Retired Health Care Practitioners:* The bill exempts from the earnings limitation a retired individual who is reemployed on a contractual basis in a State residential center, a chronic disease center, a State facility, or a county board of health.

*Reporting Requirements:* The proposal establishes a number of reporting and notification requirements.

- The superintendent of a local school system must approve the rehiring of these individuals, determine the school where the retirees are to be employed, and annually notify MSDE by August 1 each year the number of retirees rehired, the location of the schools for each, the subject matter taught, and the annual salary for each.
- A county board of education must notify the State Retirement Agency (SRA) of any retired teachers or other personnel who qualify under this proposal.
- MSDE must notify a local board when there is no longer a shortage of teachers in a county or subject area on a statewide basis, and must establish regulations concerning the employment terms of retired teachers.
- The State Superintendent of Schools must notify the Appropriations and Budget and Taxation committees by September 1 of each year: (1) the number of retirees, the school and school system for each, the subject taught, the salary received at retirement, and the current salary; (2) the number of teachers and principals hired who are not retirees; (3) the school and school system where each teacher and principal has been hired; (4) the subject matter each is teaching; and (5) the annual salary of each teacher and principal hired.
- The Department of Health and Mental Hygiene (DHMH) is to notify SRA of retirees contractually employed as health care practitioners.
- The Secretary of Health and Mental Hygiene is to report to Appropriations and Budget and Taxation Committees by September 1 the number of retirees rehired as health care practitioners, each retirees annual salary as of retirement, and the

current salary, the number of health care practitioners hired who are not retirees, and the annual salary for each.

A retiree who is rehired under this proposal may not be rehired within 45 days of the date that the retiree retired.

**Current Law:** A retiree of the Teachers' Retirement System and the Teachers' Pension System who receives a service retirement allowance or vested allowance and returns to employment with a participating employer of the State Retirement and Pension System is subject to an earnings limitation in the form of a reduction in benefits. Benefits are reduced dollar-for-dollar by the amount earnings exceed the difference between the average final salary and the 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.

This limitation applies if the retiree is reemployed with the same employer (the State or any of the 112 participating governmental units, including local school boards) from which the individual retired or if the retiree becomes reemployed within 12 months of receiving an early service retirement allowance. Because the State Retirement Agency receives payroll data from participating employers at the end of the calendar year, the offset is applied against the retiree's benefit during the subsequent year. The offset cannot exceed the member's total benefit. A retired member does not accrue additional pension service credit if reemployed with a participating employer, but does receive a pension benefit simultaneously with the reemployment salary (less any reduction in the pension benefit for the offset). Retirees are only subject to an offset in the 10 years after the initial retirement.

### **Background:**

#### *Retired Teachers, Principals, and Supervisors of Principals*

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 were reemployed under certain circumstances. These exemptions terminated June 30, 2004.

Each of the exemptions required that a member retire with a normal service retirement or wait 12 months if the member retires 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. MSDE must notify the local boards of education as to which schools, counties, or subject areas met the above criteria.

Specific requirements for each of these exemptions are as follows:

(1) for retired teachers (Chapter 578):

- 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 returned as classroom teachers.

As shown in **Exhibit 1**, during the 2003-2004 school year, 774 teachers and principals were reemployed by local school systems under the exemptions. This is a decrease of  
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18.5% from the 2002-2003 school year (950 teachers and principals). Data by local jurisdiction was not available for the 2003-2004 school year. Under the exemptions, Prince George's County 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 were reemployed retirees. The exceptions were also widely used in Anne Arundel, Baltimore, and Frederick counties.

HB 1290 and HB 306 of 2004 both attempted to extend the sunset date for the three chapter laws on reemployment earnings limitations. Neither bill was reported favorably by the Appropriations Committee.

### *Health Care Practitioners*

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 terminated on June 30, 2004.

As shown in **Exhibit 2**, DHMH filled 81 positions in fiscal 2004 under Chapter 733, with most positions filled by registered nurses, licensed practical nurses, community health nurses, and direct care assistants.

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## **Exhibit 2**

### **Retired Health Care Practitioners Reemployed Under Chapter 733 of 2001**

Class Title	<i>Fiscal 2002</i>		<i>Fiscal 2003</i>		<i>Fiscal 2004</i>	
	Employees	FTEs	Employees	FTEs	Employees	FTEs
Registered Nurses	24	9.30	27	9.97	26	11.41
Licensed Practical Nurses	12	7.23	13	8.03	20	10.65
Community Health Nurses	12	.95	12	4.59	21	9.62
Direct Care Assistants	10	4.82	9	4.80	11	4.97
Other Titles	9	2.76	14	4.78	3	.65
<b>Total</b>	<b>67</b>	<b>31.06</b>	<b>75</b>	<b>32.17</b>	<b>81</b>	<b>37.3</b>

Note: The exemption established by Chapter 733 of 2001 terminated June 30, 2004.  
Source: Department of Health and Mental Hygiene

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## State Fiscal Effect:

### *Reemployment of Teachers and Principals*

The Department of Legislative Services (DLS) expects that the removal of the exemption would lead to an increase in the number of teachers who retire in the first year of eligibility. Teachers that retire sooner pay less employee contributions into the systems and collect benefits from the system over a longer period of time.

As shown in **Exhibit 3**, the percentage of teachers retiring from both the Teachers' Retirement System (7.7% annually) and the Teachers' Pension System (11.5% annually) in the first year of eligibility increased from 1998-2002, resulting in part from the presence of an exemption from the earnings limitation. This pattern is in contrast to the pattern evidenced in the 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. Members who retire sooner pay fewer contributions into the system and collect benefits over a longer period of time, resulting in increased pension liabilities.

DLS has estimated the cost of re-implementing the teacher and principal exemption from the earnings limitation. The decrease in the retirement age will lead to an increase in liabilities of \$59.2 million, at a first year amortized cost of \$3.6 million in fiscal 2007.

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### Exhibit 3

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

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

Source: Milliman USA, Department of Legislative Services

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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 75.5% of teachers rehired under the recently terminated earnings limitation exemptions have been rehired as classroom teachers in English, reading, mathematics, science, a foreign language, civics and government, economics, history, geography, English as a second language, technology education, special education, or elementary education.

DLS advises that if 75.5% of the teacher retiree population comes back in the subject areas discussed above, the total liability to the system would be approximately \$44.7 million.

**Exhibit 4**  
**Percentage of Rehired Teachers in English, Reading, Mathematics, Science, A Foreign Language, Civics and Government, Economics, History, Geography, English as a Second Language, Technology Education, Special Education, or Elementary Education**

<u>Jurisdiction</u>	<u>Total Number of Rehired Teachers Reported</u>	<u>Number of Rehired Teachers Eligible Under Criteria Listed*</u>	<u>% of Rehired Eligible</u>
Baltimore	165	125	75.8%
Charles	25	22	88.0%
Prince George’s	224	173	77.2%
Wicomico	<u>23</u>	<u>10</u>	<u>43.5%</u>
<b>Totals</b>	<b>437</b>	<b>330</b>	<b>75.5%</b>

\* Includes mentor teachers.

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

DLS further notes that the restriction to schools in the lower 40% of overall performance statewide would further reduce the number of teachers who will to return to the classroom. DLS advises that if the rate of returning teachers mirrors the percentage of schools to which they are permitted to return without an offset (the lower 40% of overall school performance), the total liability to the system would be \$17.9 million. Amortized over 25 years, this equates to a first year cost of \$1.1 million in fiscal 2007, increasing annually.



### *Health Care Practitioners*

State pension liabilities for reemployment of health care practitioners will increase to the extent that the exemption from the earnings limitation prompts employees to retire earlier than anticipated, thereby decreasing the average retirement age. This could result in a minimal increase in the State contribution rates. However, this impact will be mitigated by the fact that:

- the rates for retirement at first point of eligibility for ERS and EPS declined from 1998-2002, including the period in that span that nurses had an exemption from the earnings limitation (2001-2002). DLS expects this trend toward later retirement to hold;
- the population taking advantage of this exemption has been relatively small (67-81 employees), compared to the total population of ERS and EPS (86,444 active members as of June 30, 2004).

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 8 of 2004, passed the Senate, but no action was taken in the House.

**Cross File:** HB 1442 (Delegate Cardin) – House Rules and Executive Nominations.

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

**Fiscal Note History:** First Reader - February 22, 2005  
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Analysis by: Martin L. Levine

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

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**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		2003-2004	
	Teachers Reemployed	Principals Reemployed	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	--	--
<b>Total</b>	<b>687</b>	<b>20</b>	<b>752</b>	<b>20</b>	<b>913</b>	<b>37</b>	<b>764</b>	<b>10</b>

Note: The exemptions established by Chapter 518 of 1999 and Chapter 245 of 2000 terminated on June 30, 2004.  
Source: Maryland State Department of Education

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