

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1347

(Delegate Conway, *et al.*)

Appropriations

Budget and Taxation

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**Retirement and Pensions - Reemployment of Retirees**

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This pension bill specifies the circumstances under which retired teachers, principals, and supervisors of principals may be rehired without an earnings limitation (pension benefit offset).

The bill is effective July 1, 2005 and terminates June 30, 2007.

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**Fiscal Summary**

**State Effect:** State pension liabilities could increase by \$47.4 million due to changes in teacher retirement patterns, resulting in a first year cost (FY 2007) of \$2.8 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	2,828,800	2,942,000	3,059,600	3,182,000
Net Effect	\$0	(\$2,828,800)	(\$2,942,000)	(\$3,059,600)	(\$3,182,000)

*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 may 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, Principals, and Supervisors of Principals:* The bill exempts from the earnings limitation a retired individual who is or has been certified in Maryland to teach, and performed at satisfactory or better levels in his last assignment prior to retirement.

Exempt retired teachers 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) or is deemed "in need of improvement" 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 adjudicated youths or students who have been expelled or suspended from public schools.

The reemployed retired teachers 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, special education with special needs students, or students with limited English proficiency.

A school system may also hire from 3 to 10 teachers or instructors at eligible schools, but their teachers are not restricted by subject matter. The number of such teachers available is dictated by size of the school system.

The bill also exempts from the earnings limitation a retired individual who was employed as a principal within 5 years of retirement, or was employed as a principal not more than 10 years before retirement and as a supervisor of principals at retirement.

Principals 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 four consecutive years.

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

*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 retiree is to be employed, and complete a form within 30 days of the individual's hiring to the notify the State Retirement and Pension System Board of Trustees and MSDE certifying that the retiree satisfies the criteria in the bill.
- If an individual on the above form does not meet the criteria for reemployment, the local school system must reimburse the pension system the amount of salary that would have been offset without an exemption.
- By August 1 of each year, the superintendent of each school system is to report to MSDE the number of retirees rehired, the school and school system for each retiree, the subject taught by each retiree, the annual salary of each individual, and whether the school was eligible under the bill.
- The 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 local boards 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 Joint Committee on Pensions by October 1 of each year on: (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) whether the school was eligible under the bill; and (3) the length of reemployment for each retiree.
- The State Superintendent of Schools must also certify the areas of critical shortage as evidenced by projected employment vacancies against projected teacher graduates.

The bill provides that a school system not making AYP the past two school years may reemploy a retired principal until June 30, 2007 without subjecting the individual to an earnings limitation.

A retiree who is rehired under this bill 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 SRA 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 SRA of any retired members who qualify for the exemptions from the reemployment offset. The State Board of Education 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 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.

## **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 2**, 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 Employees' Retirement System (ERS) (-4.2% annually) and the Employees' Pension System (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 exemptions from the earnings limitation under the expired exceptions. The decrease in the retirement age would have 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 2**

#### **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 3**, based on the sample of these four counties, approximately 73% 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, special education, or elementary education.

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**Exhibit 3**  
**Percentage of Rehired Teachers in English, Reading, Mathematics, Science,  
A Foreign Language, Civics and Government, Economics, History,  
Geography, English as a Second Language, 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>Percent of Rehired Eligible</u>
Baltimore	165	118	71.5%
Charles	25	21	84.0%
Prince George's	224	170	75.9%
Wicomico	<u>23</u>	<u>10</u>	<u>43.5%</u>
<b>Totals</b>	<b>437</b>	<b>319</b>	<b>73.0%</b>

\* Includes mentor teachers.

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

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The bill restricts the subject matter in which a retired teacher may be reemployed to those subjects defined by MSDE as areas of critical shortage. This determination is a function of anticipated vacancies and projected teacher graduates. DLS estimates that these subjects will encompass 80% of the retired teacher population. If this proportion returns to employment under an exemption from the earnings limitation, pension liabilities will increase \$47.4 million.

In that the bill makes no restrictions other than those discussed above on the teacher population eligible for an exemption from the earnings limitation, the total liability to the system is \$47.4 million. Amortized over 25 years, this equates to a first year cost (fiscal 2007) of \$2.8 million, increasing annually.

**State Revenues:** Minimal revenues may be generated by the reimbursement paid by local school systems for employees who were certified for reemployment under the bill, but did not meet the criteria required.

**Local Fiscal Effect:** Local school systems will not incur pension costs, as the State pays the pension contributions for the local systems. However, the reporting requirements may impose administrative costs on the systems.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Milliman USA, Maryland State Retirement Agency, Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2005  
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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						
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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