

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 562
 Appropriations

(Delegate Proctor, *et al.*)

Teachers' Retirement and Pension Systems - Reemployment of Retirees

This bill changes the circumstances under which retired teachers and principals can be rehired by their former employers without triggering a reduction of their pension payments.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: Accrued pension liabilities increase by \$2.6 million due to more teachers retiring earlier than expected. Amortizing that liability over 25 years results in increased State pension contributions of \$159,000 beginning in FY 2009, increasing thereafter according to actuarial assumptions.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	159,000	332,000	517,000	718,000
Net Effect	\$0	(\$159,000)	(\$332,000)	(\$517,000)	(\$718,000)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: To avoid a reduction in pension benefit payments, retired teachers in the Teachers' Retirement System (TRS) or the Teachers' Pension System (TPS) who are rehired by their former employer on a contractual basis must be reemployed as a classroom teacher, substitute teacher, or teacher mentor in a public school and satisfy at least one of the following criteria:

1. teach in a school that • is not making adequate yearly progress (AYP) under the federal No Child Left Behind Act of 2001 (NCLB); • has more than 50% of its students eligible for federally-subsidized school lunches; or • provides an alternative education program for adjudicated youth or students who have been suspended, expelled, or identified for suspension from a public school; or
2. teach • an area of critical shortage; • special education; or • English for speakers of other languages.

These provisions represent two changes from current law. First, the designation of schools in which more than 50% of students receive federally subsidized school lunches in the first set of criteria replaces schools that receive Title 1 funds under NCLB. This change also applies to retired principals who are rehired by their former employer.

Second, current law requires rehired teachers to satisfy both sets of criteria to qualify for the exemption from a benefit reduction instead of just one. Therefore, schools that meet any of the first set of criteria may rehire teachers to teach any subject area. Similarly, any school may rehire a retired teacher to teach in any of the three areas specified in the second set of criteria.

The bill adjusts reporting requirements for Maryland State Department of Education (MSDE) to conform to these statutory changes.

Current Law: In general, retirees who are receiving a retirement benefit from the State may be reemployed by their former employer after 45 days, subject to a reduction in their retirement benefit under certain circumstances. Retired teachers and principals who are reemployed by their former employer (the same school district) are subject to the benefit reduction, which is calculated as follows:

[Current annual compensation] + [Initial annual retirement allowance] – [Average final compensation at retirement]

Prior to July 1, 2005, retired teachers and principals were not subject to the benefit reduction if they:

- had been retired for more than nine years;
- had an average final compensation less than \$10,000 at the time of retirement and were reemployed on a temporary or contractual basis;
- were serving as an elected official; or
- had retired from TRS, been rehired by a participating employer other than the State before September 30, 1994, and their compensation did not derive in any way from State funds.

Chapter 499 of 2005 added additional conditions that TRS/TPS retirees have to satisfy to qualify for the exemption. Under Chapter 499, TRS/TPS retirees who return to work for their previous employer can avoid a retirement benefit reduction if they:

- are or have been certified to teach in the State;
- received satisfactory or better performance evaluations in their last assignment prior to retirement;
- are appointed to their new position in accordance with statutory provisions; and
- continue to receive satisfactory or better performance evaluations in their current jobs.

In addition, to avoid the benefit reduction, they must satisfy both of the following criteria:

1. be rehired by a school that receives ● funds under Title I of NCLB; ● provides an alternative education program for adjudicated youth or students who have been expelled or suspended from public schools; or ● is not making AYP or is deemed to be “in need of improvement” under NCLB; and
2. be rehired as a classroom teacher, substitute classroom teacher, teacher mentor, or substitute teacher mentor in a subject area identified by the MSDE as an area of critical shortage, or serve students with special needs or limited English proficiency.

In addition, Chapter 499 of 2005 allows each school system to hire from 3 to 10 retired teachers at eligible schools, depending on their size, without restricting which subject areas they can teach.

The State Superintendent of Schools must report to 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.

Background: Prior to the stricter conditions on the rehiring of retired teachers and principals imposed by Chapter 499 of 2005, between 770 and 950 retired teachers and principals were rehired by local school systems each year since 2001. Prince George’s County and Baltimore City public schools were responsible for the largest number of rehires, together accounting for more than 80% of all reemployed teachers and principals. As shown in **Exhibit 1**, Chapter 499 dramatically reduced the number of retired teachers and principals who were reemployed by local school systems.

Exhibit 1
Retired Teachers and Principals Reemployed by Local School Systems

	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>
Rehired teacher and principal retirees	772	950	774	174	148

MSDE has identified the following content areas as areas of critical shortage for the 2006-07 school year (grades 7-12 unless otherwise noted):

- special education (all grades);
- English for speakers of other languages (all grades);
- chemistry;
- physical science;
- earth/space science;
- chemistry;
- math;
- Spanish;
- Latin;
- dance (all grades);
- computer science;
- health occupations; and
- technology education.

State Fiscal Effect: The bill would significantly expand opportunities for retired teachers and principals to be rehired without a pension benefit reduction. MSDE reports that the number of schools with more than half of their students eligible for federally subsidized meals (396) exceeds the number of Title I schools (370). Therefore, there would be 26 more schools eligible to hire retired teachers; moreover, the bill would allow those teachers to teach any subject area in those schools, not just critical shortage areas. Also, the bill allows all schools in the State, not just Title I or low-performing schools, to rehire retired teachers to teach critical shortage areas. The Department of Legislative Services (DLS) believes these changes will restore the number of retired teachers and principals who are reemployed without a pension offset to the same levels before Chapter 499 of 2005 reduced that number. Based on those pre-Chapter 499 levels, DLS assumes that up to 1,000 teachers and principals will be reemployed without a pension offset, or 850 more than are currently reemployed.

Based on that assumption, the General Assembly's actuary estimates that, on average, teachers who choose to be reemployed after retirement will retire one year earlier than they would have otherwise, thereby lengthening the period of time that the State would have to pay them benefits by one year. This increases accrued pension liabilities by \$2.6 million. Amortizing that liability over 25 years results in State pension contributions increasing by \$159,000 in fiscal 2009. As more teachers elect to retire earlier than originally planned each year, payments increase in future years according to actuarial assumptions. State pension contributions for TRS/TPS are 100% general funds.

Additional Information

Prior Introductions: None.

Cross File: SB 668 (Senator Pinsky, *et al.*) – Budget and Taxation.

Information Source(s): Mercer Human Resources, State Retirement Agency, Maryland State Department of Education, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2007
ncs/jr

Analysis by: Michael C. Rubenstein

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