

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 962
 Appropriations

(Delegate Conway, *et al.*)

Budget and Taxation

Teachers' Retirement System and Teachers' Pension System - Reemployment of Retirees

This bill expands the conditions 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: State accrued pension liabilities increase by \$1.1 million due to more teachers retiring early to take advantage of the expanded rehiring opportunities. Amortizing that liability over 25 years results in State pension contributions increasing by \$65,700 in fiscal 2009. As more teachers elect to retire earlier than originally planned each year, payments increase in future years 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	65,000	136,600	213,100	295,500
Net Effect	\$0	(\$65,000)	(\$136,600)	(\$213,100)	(\$295,500)

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; • receives federal funds under Title I of NCLB Act of 2001; or • provides an alternative education program for adjudicated youth or students who have been suspended, expelled, or identified for suspension from a public school; and
- (2) teach • an area of critical shortage; • special education; or • English for speakers of other languages (ESOL).

It also allows each school system to hire from 5 to 15 retired teachers, depending on the total number of teachers in the county, to either:

- teach any subject at an eligible school, as described above, or;
- teach an area of critical shortage, special education, or ESOL in any school in the county.

These provisions represent two major changes from current law. First, it adds to the list of eligible schools those schools in which more than 50% of students receive federally subsidized school lunches. This change also applies to retired principals who are rehired by their former employer.

Second, the bill expands the flexibility of local school districts to rehire retired teachers to teach either an area of critical shortage or in a high-needs school (otherwise they would have to satisfy both criteria).

The bill adjusts reporting requirements for the 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, 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 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) they must be rehired by a school that receives funds under Title I of NCLB Act of 2001, provides an alternative education program for adjudicated youth or students who have been expelled or suspended from public schools, is not making AYP, or is deemed to be “in need of improvement” under NCLB; and
- (2) they are rehired as a classroom teacher, substitute classroom teacher, teacher mentor, or substitute teacher mentor in a subject area identified MSDE as an area of critical shortage, or serve students with special needs or limited English proficiency.

In addition, Chapter 499 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. 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. Six local school systems (Allegany, Caroline, Dorchester, Frederick, and Prince George's counties and Baltimore City) require schools to have poverty levels greater than 50% before they qualify for Title I funds. These jurisdictions will have more schools that will be eligible to rehire retired teachers and principals because schools with poverty levels greater than 50% that do not receive Title I funds will also be able to hire retired teachers. In addition, based on Department of Legislative Services (DLS) calculations, the maximum number of retired teachers that superintendents will be able to hire to teach either in a high-needs school or in an area of critical shortage increases from 96 to 164.

DLS believes these changes will increase the number of retired teachers and principals who are reemployed without a pension offset by approximately 350. Although the bill expands opportunities for retired principals and teachers to be rehired by their former employers without a pension offset, it is more restrictive than the law in place before Chapter 499 of 2005 reduced the number of rehires significantly. DLS assumes that up to 500 teachers and principals will be reemployed without a pension offset, or 350 more than are currently reemployed, but 450 fewer than the highest level recorded before Chapter 499.

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 \$1.1 million. Amortizing that liability over 25 years results in State pension contributions increasing by \$65,700 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: None.

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

Fiscal Note History: First Reader - February 25, 2007
mam/jr Revised - House Third Reader - March 23, 2007

Analysis by: Michael C. Rubenstein

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