

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

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

Senate Bill 564 (Senator McFadden, *et al.*) (Chair, Joint Committee on Pensions)

Budget and Taxation

Appropriations

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**State Retirement and Pension System - Reemployment of Retirees**

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This bill requires local school systems to reimburse the State Retirement and Pension System for the offset of pension benefits for reemployed retired teachers that result from late or nonreporting of reemployed retirees who are exempt from the offset. It allows individuals with vested or normal service benefits in the Employees' Retirement System and Employees' Pension System who are appointed to judgeships to suspend their ERS/EPS allowance while they are members of the Judges' Retirement System. The bill also exempts a JRS retiree who is also receiving a service retirement allowance from either the ERS or EPS from an earnings limitation if the JRS retiree is temporarily assigned to sit in a court of the State. Finally, the bill requires the Joint Committee on Pensions to study issues related to the reemployment of SRPS retirees and submit a report to the General Assembly by December 31, 2008.

The bill takes effect July 1, 2008; uncodified provisions of the bill that affect sitting judges as of June 30, 2008 terminate December 31, 2008.

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**Fiscal Summary**

**State Effect:** No discernable effect on State pension liabilities or contribution rates.

**Local Effect:** Potential minimal increase in reimbursement payments to SRPS by local school systems that do not meet the reporting requirements in current law.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The codified portion of the bill applies to ERS/EPS retirees who are receiving retirement allowances at the time they become eligible for membership in JRS by virtue of their appointment to a judgeship with the Court of Appeals, Court of Special Appeals, circuit court, or District Court, and to ERS/EPS former vested members who qualify for a vested allowance while serving as a judge in the same courts. Those individuals may choose to suspend their ERS/EPS allowances during their time on the bench, allowing them to earn service credit within JRS. Upon leaving the bench, these individual are entitled to receive their ERS/EPS allowances. If they die on the bench, their spouses are still entitled to ERS/EPS survivor benefits.

The uncodified portion of the bill applies to sitting judges as of June 30, 2008 who are eligible for service or vested allowances from ERS/EPS and are either earning service credit in JRS or are receiving their ERS/EPS allowance, subject to reemployment offsets. In either case, the sitting judges may suspend their ERS/EPS allowances, be exempt from the offset, and earn service credit in JRS. If they die on the bench, their spouses are eligible for survivor benefits from ERS/EPS.

**Current Law:** A member of ERS or EPS is entitled to a vested allowance at age 60 (ERS) or age 62 (EPS) with 5 years of service credit, or a normal service retirement with 30 years of service. An individual receiving either a vested or normal service allowance from either ERS/EPS may not earn service credit in any other State system, including JRS.

JRS members are entitled to a full service benefit at age 60 or with 16 years of service. Retirement is mandatory at age 70. A full service benefit equals two-thirds of the annual compensation paid to an active judge in the same position. JRS members who retire with less than 16 years of service receive a prorated benefit.

Article IV § 3A of the Maryland Constitution allows the Chief Judge of the Court of Appeals, upon the approval of a majority of the court, to assign any former judge, except a former judge of the Orphans' Court, to sit temporarily in any court of the State, except an Orphans' Court.

In general, JRS, ERS, and EPS retirees are subject to an earnings limitation if they are reemployed by a unit of State government and their last separation from employment was also from a unit of State government. If they meet these criteria, they are subject to a pension benefit reduction equal to:

$$[\text{annual retirement allowance}] + [\text{annual compensation}] - [\text{compensation at retirement}]$$

ERS/EPS retirees are not subject to the benefit reduction if they:

- have been retired for more than nine years;
- had an average final compensation less than \$10,000 and are reemployed on a temporary or contractual basis;
- serve as an elected official; or
- are reemployed as a health care practitioner in specified medical institutions.

JRS retirees who are employed by a local government or community college or are temporarily assigned to a State court are exempt from the earnings limitation. Under these terms, a retired judge temporarily assigned to a court is exempt from the offset for his or her JRS benefit, but not for an ERS/EPS benefit, if he or she receives one.

**Background:** SRPS reports that while school systems did not err in reporting the number of reemployed teachers exempt from the benefit offset during the 2006-2007 school year, some school systems did not report within the statutory 30-day timeframe. As a result, some reemployed teachers who should have been exempt have been subjected to an offset. This bill would make the local school systems responsible for reimbursing the system for the offset when they do not report within the mandated timeframe, just as they are responsible if they erroneously report a teacher as being exempt.

Judges who are eligible to receive an ERS/EPS allowance confront a choice. One option is to receive a much-reduced ERS/EPS allowance, because it would be subject to the reemployment offset, which renders them ineligible for service credit in the more generous JRS system. The second option is to not file for retirement from ERS/EPS so they can earn JRS credit. If they choose the latter option and die on the bench, however, their spouse loses all survivor benefits from ERS/EPS because the member never retired.

As of June 30, 2007, there were 297 active members of JRS and 335 retired members. The State Retirement Agency reports that about 80 of the active members have vested accounts in ERS/EPS. Most appear to have from 5 to 10 years of vested service. The agency is aware of only two individuals who, as of June 30, 2008, will be sitting judges and eligible for normal service retirement benefits from ERS/EPS based on 30 years of service. It is also aware of only one individual who is a retiree of both JRS and ERS and has been assigned to sit temporarily on a State court.

**State Fiscal Effect:** Initially, the bill could serve to slightly reduce State pension liabilities by increasing the number of sitting judges who defer the payment of their ERS/EPS allowances. However, those reductions could be offset in the future by a

greater number of judges qualifying for more generous benefits paid by JRS. Given the small number of individuals affected by the bill and the offsetting costs and savings, the net effect on State pension liabilities is expected to be minimal.

Under this bill, a retired judge sitting temporarily on a State court would be exempt from the ERS benefit offset, resulting in a marginal “loss” to the system. Foregone offsets are not accounted for by the actuary for the State Retirement and Pension System in calculating pension liabilities, so there is no effect on liabilities or State contribution rates from that provision.

**Local Fiscal Effect:** Local school systems that do not report within the 30-day frame their hiring of retired teachers who are exempt from the pension offset time would have to pay the amount of the offset to SRPS.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 720 (Delegate Griffith) (Chair, Joint Committee on Pensions) – Appropriations.

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

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