HB 635

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 635 (Delegate Frush, *et al.*)

Appropriations Budget and Taxation

Judges' Retirement System - Reemployment of Retirees

This bill allows a retiree of the Judges' Retirement System (JRS) to be reemployed by any unit of State government without a reduction to the retiree's pension allowance, as long as the retiree is not rehired within 45 days of retiring from State service. The bill repeals the retirement benefit offset and exceptions in current law that are not needed due to the broader reemployment of retired judges allowed by the bill. The Chief Judge of the Court of Appeals must report annually to the Joint Committee on Pensions regarding the number and employment status of retired judges affected by the bill.

The bill takes effect July 1, 2010, and terminates June 30, 2014.

Fiscal Summary

State Effect: Negligible increase in State pension liabilities, and no discernible effect on pension contribution rates for the Judiciary. The Administrative Office of the Courts can handle the bill's reporting requirements with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: JRS members are eligible for a full service retirement at age 60 or upon retirement by order of the Court of Appeals, with at least 16 years of eligibility service. Retirement is mandatory at age 70. The retirement allowance equals two-thirds of the annual earnable compensation paid to an active judge holding a comparable position.

Members pay an employee contribution of 6% of annual compensation during their first 16 years of service; no contributions are required after 16 years.

In general, retirees who receive a retirement benefit from the State may be reemployed. In most cases, however, their benefit payment is subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. For members who retire directly from State service, including judges, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction, which is calculated as follows:

Benefit Reduction = [Current annual compensation] + [Initial annual retirement allowance] – [average final compensation (AFC) at retirement].

As an example, if a member retires with an AFC of $60,000 and an initial benefit of $32,400, and is rehired with an annual salary of $50,000, the offset is equal to:

$50,000 + $32,400 - $60,000 = **$22,400**.

The retiree's annual benefit therefore becomes $10,000 ($32,400 - $22,400), which makes the retiree's total income the same as AFC at the time of retirement ($60,000). Since JRS benefits are based on the compensation of active judges, the benefit reduction is recalculated every time judges' salaries change.

JRS retirees who are assigned temporarily to sit in a State court under the authority of Article IV, § 3A of the Maryland Constitution or who are faculty members of a public institution of higher education in the State are exempt from the benefit reduction. Under certain circumstances, teachers, principals, correctional officers, and health care practitioners are exempt from the reemployment offset.

Background: As of June 30, 2009, there are 348 JRS retirees and beneficiaries.

State Fiscal Effect: *Foregone Benefit Reductions:* Reemployed JRS retirees are not subject to the retirement offset under this bill, so the State Retirement Agency (SRA) continues to make full benefit payments to those retirees instead of reducing their benefits as dictated by current law. In most cases, when benefit payments are larger than expected, the difference between the expected benefit and the actual benefit is recognized as an actuarial loss in the annual valuations conducted by the system's actuary. However, SRA has consistently advised that its actuary does not recognize foregone offsets in its annual valuations, so there is no effect on State pension liabilities or contribution rates.

Earlier Retirement: The purpose of the reemployment offset is to dissuade a member from retiring with the knowledge that he or she can be reemployed in the same job and still collect a full retirement benefit. The offset reduces total income from the combined retirement benefit and salary to what the member would receive if he or she remained employed. By eliminating the offset, the bill may encourage a JRS member to retire earlier than he or she normally would. An earlier-than-planned retirement increases State pension liabilities because it requires SRA to make a benefit payment over a longer period of time than expected. Those increased liabilities are recognized as actuarial losses in annual valuations and may contribute to increased pension contributions for the State. However, given the limited number of JRS retirees, and the current exemptions for temporary reassignment to a court and for faculty members, the bill is expected to affect only a handful of JRS retirees. Therefore, the overall effect on pension liabilities is expected to be negligible, yielding no discernible effect on pension contribution rates for the Judiciary.

Additional Information

Prior Introductions: HB 1348 of 2009, a similar bill as amended, passed the House and passed third reading with amendments in the Senate, but a Conference Committee was not appointed.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Mercer Human Resources Consulting, Maryland State Retirement Agency, Department of Legislative Services

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