

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

Revised

House Bill 1168

(Delegate Eckardt)

Appropriations

Budget and Taxation

**Employees' Retirement and Pension Systems - Reemployment of Retirees - Health
Care Practitioners**

This bill repeals the June 30, 2011 termination date for Chapter 473 of 2009, which repealed the four-year limitation on the exemption from a retirement allowance reduction for retirees of the Employees' Retirement System (ERS) or the Employees' Pension System (EPS) who are reemployed on a contractual basis as health care practitioners.

The bill takes effect June 1, 2011.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: 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, 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:

$$\$50,000 + \$32,400 - \$60,000 = \mathbf{\$22,400}.$$

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).

Prior to the enactment of Chapter 473, ERS and EPS retirees were exempt from the benefit reduction for up to four years if they were reemployed on a contractual basis by the Department of Health and Mental Hygiene (DHMH) as a health care practitioner in a:

- State residential center;
- chronic disease center;
- State facility; or
- local health department.

Chapter 473 eliminated the four-year limit on the reemployment exemption for health care practitioners, with a scheduled termination date of June 30, 2011. This bill repeals the termination, allowing ERS and EPS retirees to be exempt from the reemployment limitation for an unlimited amount of time.

Under certain circumstances, teachers, principals, correctional officers, judges, and State Troopers are exempt from the reemployment offset.

Background: Chapter 733 of 2001 established a temporary exemption from the retirement benefit reduction for health care practitioners reemployed on a contractual basis by DHMH; Chapter 733 terminated on June 30, 2004. Chapter 395 of 2005 reestablished the exemption for health care practitioners and instituted the four-year limitation.

Both pieces of legislation were designed to help DHMH address a chronic shortage of nurses in State health care facilities, especially in those that provide round-the-clock care. A 2005 report by the Statewide Commission on the Crisis in Nursing projected a shortage of more than 17,000 nurses in Maryland by 2012.

In fiscal 2010, DHMH reemployed 110 retired health care practitioners, of whom 69 were nurses.

State Fiscal Effect: An exemption from the reemployment earnings limitation has the potential to increase pension liabilities in several ways. First, providing the exemption can encourage active employees to retire sooner than they otherwise would because they

know that they can continue to work in the same job and also earn a full pension benefit. Retirements that occur earlier than expected increase liabilities because they require pension payments to be paid out over a longer period of time. However, with the exception of fiscal 2005, active health care practitioners have been exempt from the earnings limitation since 2001, and would continue to be exempt for up to four years of reemployment, even in the absence of this bill.

Repealing the limitation on the number of years that a retired medical practitioner can be reemployed without being subject to the earnings limitation may also encourage active members to retire sooner because they know there is no limit to how long they can earn a salary and pension benefit at the same time. However, the temporary repeal of the four-year limit had the opposite effect. The number of retirees rehired by DHMH after the temporary repeal of the four-year limit actually fell, from 119 in fiscal 2009 to 110 in fiscal 2010, and the number of nurses, an area of acute shortage, fell even more, from 82 in fiscal 2009 to 69 in fiscal 2010. So, based on this limited experience, there is no evidence that repealing the four-year limitation increases the number of rehired retirees subject to the exemption.

Therefore, the only potential fiscal effect is the foregone offsets for eligible ERS/EPS retirees who remain reemployed beyond the four-year limit. The State Retirement Agency has consistently advised that its actuary does not account for foregone offsets in its annual valuation of State pension liabilities. Therefore, there is no effect on pension liabilities or State pension contribution rates.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Retirement Agency, Department of Health and Mental Hygiene, Department of Legislative Services

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