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FISCAL AND POLICY NOTE
Revised

House Bill 98
Appropriations

(Delegate Griffith)(Chair, Joint Committee on Pensions)

Budget and Taxation

Teachers' Retirement and Pension Systems - Reemployment of Retirees -
Maryland School for the Deaf Exemption

This bill adds the Maryland School for the Deaf (MSD) to the types of schools in which a retiree of the Teachers' Retirement System (TRS) or the Teachers' Pension System (TPS) may be reemployed without being subject to a pension benefit reduction. It also requires MSD to comply with related reporting requirements and enforcement procedures.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: No discernible effect on State pension liabilities or contribution rates. MSD can comply with the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Benefit Reduction for Reemployed Retirees: 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).

Exemptions for TRS/TPS Retirees: To avoid a reduction in pension benefit payments, retired teachers in TRS or TPS who are rehired by their former employer on a contractual basis must be reemployed as a classroom teacher, substitute classroom teacher, or teacher mentor in a public school and satisfy at least one of the following criteria by teaching in a public school that:

- is not making adequate yearly progress (AYP) or is in need of improvement 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; or
- provides an alternative education program for adjudicated youth or students who have been suspended, expelled, or identified for suspension from a public school.

The rehired individual also has to teach:

- an area of critical shortage;
- special education; or
- a class for students with limited English proficiency.

Each school system may also 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 a class for students with limited English proficiency in any school in the county.

Former principals who are TRS/TPS retirees are also exempt from the benefit reduction if they are reemployed by their former employer in a school that meets any of the qualifications for eligible schools listed above. Teachers and principals do not qualify for the exemption if they work in a school that has made AYP for four consecutive years.

Local school systems are required to report annually to the Maryland State Department of Education on the number and characteristics of reemployed retirees who are subject to the exemption. A local school system that mistakenly reports that it has rehired a retiree who is eligible for the reemployment exemption when the individual is not eligible for the exemption, or that fails to report that it has rehired a retiree who is eligible for the exemption, must reimburse the State Retirement and Pension System for the amount that was withheld or would have been withheld from the individual.

Background:

Reemployment of Retired Teachers

Prior to the imposition of strict conditions on the rehiring of retired teachers and principals imposed by Chapter 499 of 2005, between 775 and 950 retired teachers and principals were rehired by local school systems each year. As shown in **Exhibit 1**, the number of retired teachers and principals who were reemployed by local school systems has been dramatically reduced, with only 67 retired teachers and principals rehired without a benefit reduction during the 2009-2010 school year, the most recent data available from the Maryland State Department of Education.

Exhibit 1
Retired Teachers and Principals Reemployed by Local School Systems
Select Years

	<u>2002-2003</u>	<u>2004-2005</u>	<u>2006-2007</u>	<u>2009-2010</u>
Rehired teacher and principal retirees	950	174	133	67

Source: Maryland State Department of Education

State Fiscal Effect: MSD is a State institution, so the bill affects only TRS/TPS retirees who retire directly from State service. Retirees of public school systems hired by the school would not be subject to the benefit reduction since they were local employees, not State employees, and therefore would not be rehired by their former employer. The
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extension of the reemployment exemption to State retirees may have the effect of encouraging some of them to retire earlier than they otherwise would have because they would know that they could be reemployed on a contractual basis without financial penalty. Earlier-than-projected retirements can increase pension liabilities because they require the State to pay benefits for longer than it otherwise would have.

However, Legislative Services concludes that the bill has no discernible effect on State pension liabilities or contribution rates for several reasons. First, a very small number of members are potentially affected by the bill. State membership in TRS/TPS represents 1.8% of total active membership (teachers employed by local school systems make up the rest), and most State-employed members are employed by postsecondary institutions. Related to that, MSD's 209 staff positions represent less than 0.2% of total active membership, and these are the individuals who, upon retirement, are most likely to be reemployed by MSD. Second, Exhibit 1 shows that in recent history, very few TRS/TPS retirees take advantage of the exemption available to them to become reemployed by their former employers. Therefore, although the bill may provide some meaningful financial incentives to a small number of MSD employees and retirees, which may in turn increase the system's benefit payments to those individuals, it is not likely to have a noticeable effect on TRS/TPS retirement rates. Finally, the actuary for the State Retirement and Pension System does not account for foregone benefit offsets in calculating State pension liabilities, so any foregone offsets resulting from the bill will not be reflected as increased system liabilities.

Additional Information

Prior Introductions: None.

Cross File: SB 251 (Senator Jones-Rodwell)(Chair, Joint Committee on Pensions) – Budget and Taxation.

Information Source(s): Cheiron, Maryland State Retirement Agency, Maryland School for the Deaf, Maryland State Department of Education, Department of Legislative Services

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