

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

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

Senate Bill 639

(Senator Serafini)

Budget and Taxation

Appropriations

**Teachers' Retirement and Pension Systems - Reemployment of Retirees -  
Exemptions**

This bill allows each local school superintendent and the superintendent of the Maryland School for the Deaf (MSD) to hire up to five retirees of the Teachers' Retirement System (TRS) and up to five retirees of the Teachers' Pension System (TPS) to work in any position at any public school and be exempt from any retirement benefit reduction. This broad exemption replaces current provisions that allow local superintendents to rehire additional TRS/TPS retired teachers to work in specified schools or subject areas. It also includes related reporting requirements for local school systems, MSD, and the Maryland State Department of Education (MSDE).

The bill takes effect July 1, 2015.

**Fiscal Summary**

**State Effect:** Potential minimal increase – due to the broader exemption – (or potential minimal decrease due to the cap) in State pension liabilities and no discernible effect on State pension contributions. MSDE and MSD can handle the additional reporting requirements with existing budgeted resources. No effect on revenues.

**Local Effect:** None. Local school systems can handle the reporting requirements with existing resources.

**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, except that they may not be reemployed by the State or any participating employer in the State Retirement and Pension System (SRPS) within 45 days of retiring. In most cases, benefits paid to reemployed retirees are subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. The purpose of the reduction is to ensure that a retiree does not earn more in retirement than the retiree earned as an active member with the same employer. 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).

Statute includes several broad exemptions from the offset for retirees who:

- have been retired for at least five years;
- retired with an AFC less than \$25,000 and are reemployed on a permanent, temporary, or contractual basis; or
- are serving in any specified elected position.

There are also targeted exemptions for correctional officers, State Police officers, nurses, and judges, as well as teachers and principals, as described below.

*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 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 the federal free or reduced-price meals program;
- 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:

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

The bill repeals provisions in current law that allow each school system to also hire from 5 to 15 retired teachers, depending on the total number of teachers in the county, to either:

- teach any subject or provide educational services at an eligible school, as described above; or
- provide educational services or teach in 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.

Within 30 days of hiring an exempt retiree, local school systems and MSD are required to certify that they have hired an exempt retiree to the SRPS Board of Trustees and to MSDE. Statute includes penalties for local school systems and MSD that fail to report or that mistakenly report they have rehired an exempt retiree when the individual is not eligible for the exemption.

### **Background:**

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 14 TRS/TPS retirees being reemployed without a benefit reduction during the 2013-2014 school year. This includes two nonclassroom teachers: a speech therapist hired by Wicomico County and a retiree hired by Kent County under the

discretionary component of the rehire program to serve as the county's Title I coordinator. No retired principals were rehired in the 2013-2014 school year.

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

	<u>2002-2003</u>	<u>2004-2005</u>	<u>2009-2010</u>	<u>2013-2014</u>
Rehired TRS/TPS retirees	950	174	67	14

Source: Maryland State Department of Education

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**State Fiscal Effect:** The effect of the bill depends on the extent to which local school systems and MSD use the broader exemption capped at 10 retirees under the bill rather than the more narrow exemption with a higher cap under current law, as discussed below. Because use of the current exemption has been limited in recent years, the bill likely results in additional reemployment of retirees. Exempting retirees from the reemployment benefit offset can affect State pension liabilities in at least two ways:

*Foregone Benefit Reductions:* Under the bill, fewer (or more, depending on the school system) retirees may be subject to the earnings limitation, which means that more (or fewer) retirees are eligible to return to work with their former employers without a benefit reduction. This means that benefit payments made by SRPS are greater (or less) than they otherwise would be in the absence of the broad exemption and the cap. However, the State Retirement Agency has consistently advised that its actuary does not recognize foregone benefit offsets in its annual valuations, so there is no actual effect on State pension liabilities or contribution rates.

*Earlier Retirements:* 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 (*i.e.*, “double dipping”). 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 capping the offset to at most 250 individuals (10 in each local school system plus MSD) and broadening the types of positions that may be rehired, the bill may encourage certain members to retire earlier than they normally would. An earlier-than-planned retirement increases State pension liabilities because it requires SRPS to make a benefit payment over a longer period of time than expected while foregoing employer and member contributions for that individual. Those increased liabilities are recognized as actuarial losses in annual valuations and may contribute to increased pension contributions for the State.

However, the combination of low rates of participation in the current rehiring program among TRS/TPS retirees in recent years (particularly in the discretionary component of the program) and the cap placed on the number who can be rehired under the bill likely means that any earlier-than-planned retirements resulting from the bill result in only a minimal increase in State pension liabilities and no discernible increase in State pension contributions.

**Additional Comments:** The bill is silent on whether the cap on reemployed retirees is annual or cumulative. Also, for the purposes of this analysis, the fiscal and policy note assumes that the cap is in *addition* to existing law that allows local school systems and MSD to reemploy retired teachers in specified schools and subject areas.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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