SB 1252

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1252 (Senators Peters and Jennings)

Budget and Taxation Appropriations

Employees' and Teachers' Retirement and Pension Systems - Reemployment Earnings Limitation

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This bill specifies that a retiree of the State Retirement and Pension System (SRPS) who is reemployed by the same employer from which the individual retired is not subject to a benefit reduction if the current employer is a unit of State government and compensation does not include any State funds. It also specifies procedures for reimbursing SRPS in cases where it is later determined that compensation included State funds. Individuals who retired on or after October 1, 1994, who were subsequently reemployed by the same employer and whose compensation did not include any State funds are entitled to a return of the earnings that were offset by SRPS. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: No discernible effect on State pension liabilities or contributions, as discussed below. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill adds a requirement that a portion of a reemployed retiree’s compensation must come from State funds to existing criteria for determining whether the reemployed retiree is subject to a benefit offset.

Within 30 days after rehiring a retiree whose compensation does not include any State funds, and annually for five years thereafter, a unit of State government must notify the SRPS Board of Trustees that the individual who was rehired is not being compensated with any State funds. If the board later determines that State funds were used to compensate the individual, the board must notify the employer by July 1 of the year that it makes the determination and the employer must reimburse the board the amount equal to the benefit reduction that would have been made under current law.

An individual who meets the following criteria is not subject to an earnings limitation and is entitled to a return of any earnings offset that was taken from the retiree's benefit payment by the SRPS board:

- retired from the Employees' Combined System or the Teachers' Combined System on or after October 1, 1994;
- retired from a unit of State government and was subsequently reemployed by a unit of State government;
- had their benefit allowance reduced as a result of their reemployment with a unit of State government; and
- their compensation as a retiree did not include any compensation from State funds.

The State Retirement Agency (SRA) must notify retirees who may be eligible for a reimbursement of their reemployment earnings offset through postings on the agency's website and newsletter. A retiree seeking reimbursement under the bill must submit a request to SRA by June 30, 2019, and is responsible for contacting the former employer in order to provide confirmation to the SRPS board that compensation during the period of reemployment did not include any State funds.

Current Law: In general, SRPS 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 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 = **$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 specified teachers and principals, parole and probation agents, health care practitioners, and judges, among others.

Background: Prior to October 1, 1994, State law provided for an exemption from the reemployment earnings limit for individuals who were reemployed in a position that was not funded with State funds. The 1994 revision of the State Personnel and Pensions Article (code revision) removed this exception.

SRA advises that, in calendar 2017, there were 81 retirees subject to an earnings limitation totaling $695,000.

State Fiscal Effect: The bill likely applies only in a limited number of cases and generally involves only a small amount of money relative to the size of the pension fund, so any net effect on pension fund assets and liabilities is expected to be negligible.

The bill requires SRPS to reimburse reemployed retirees whose benefits were reduced but whose compensation with a State agency did not include any State funds. As the amount withheld is included as a system asset by the actuary, any subsequent reimbursement payment is counted as an actuarial loss. The bill also allows SRPS to collect earnings offsets from State agencies that mistakenly report that they are not using State funds to compensate a reemployed retiree. This has the potential to increase pension assets in the future. As the system's actuary does not account for foregone offsets, any foregone offsets that are subsequently collected by the system are treated as an actuarial gain.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Retirement Agency; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510