Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 402 (The President, *et al.*) (By Request - Administration)
Budget and Taxation Appropriations

Employees' Retirement and Pension Systems – Reemployment Earnings Limitation – COVID–19 Exemption

This emergency Administration bill exempts State retirees who are rehired by the Maryland Department of Health (MDH) and the Maryland Department of Labor (MDL) for specified purposes from a statutory earnings limitation that applies to retirees of the State Retirement and Pension System (SRPS). Specifically, (1) if a State retiree is rehired by MDH for no more than three years to assist in the administration of federally funded grants related to the COVID-19 pandemic or to serve on the COVID Unified Command or (2) if an MDL retiree is rehired for no more than three years to assist with the administration of unemployment benefits related to the COVID-19 pandemic, they are exempt from an offset to their retirement benefit if their earnings exceed statutory limits. **The bill applies retroactively to January 1, 2020, and terminates December 31, 2022.**

Fiscal Summary

State Effect: Since it is assumed that the bill applies in a limited number of cases, it has no material effect on pension liabilities or contribution rates. No effect on revenues.

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

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 SRPS employer within 45 days of retiring. In most cases, retirees who are rehired by the same employer for whom they worked at the time of retirement are subject to a cap on their earnings. The purpose of the cap, which is the member's average final compensation (AFC) at the time of retirement, is to ensure that a retiree does not earn more in retirement than the retiree earned as an active member with the same employer. If the sum of a retiree's earnings and initial retirement allowance exceed the earnings cap, the retiree is subject to a dollar-for-dollar offset of the retirement benefit for any amount that exceeds the cap. 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.

Statute includes several broad exemptions from the benefit reduction for retirees who:

- have been retired for at least five years;
- retired with an AFC of 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.

The Budget Reconciliation and Financing Act (BRFA) of 2021 (Chapter 150) included an exemption that was very similar to the one in this bill; however, that exemption terminated December 31, 2021.

Background: MDL advises that, under the prior exemption granted by the BRFA of 2021, it sought to rehire five retirees, but only four were rehired and given exemptions, and they continue to be employed in various capacities to assist in resolving the backlog in unemployment insurance claims resulting from COVID-19-related job losses. MDH advises that it hired about five retirees under the prior exemption.

The State Retirement Agency has consistently advised that the actuary does not account for foregone benefit reductions in calculating pension system liabilities.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 417 (The Speaker, *et al.*) (By Request - Administration) - Appropriations.

Information Source(s): Department of Budget and Management; Maryland Department of Labor; Maryland Department of Health; State Retirement Agency; Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2022
fnu2/ljm Third Reader - March 19, 2022
Revised - Amendment(s) - March 19, 2022
Revised - Updated Information - March 19, 2022

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Employees' Retirement and Pension Systems – Reemployment Earnings Limitation – COVID-19 Exemption

BILL NUMBER: SB 402

PREPARED BY: A. Cassilly

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_x_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill will allow retires from the Maryland Department of Health and the Maryland Department of Labor to be temporarily rehired by their former respective agency for a period not to exceed 3 years to assist in the administration of federally funded grants related to the Coronavirus Disease 19 (COVID–19) without having their retirement allowance reduced. This bill only impacts a very small number of employees and should not have an impact on small businesses.