HB 1274

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1274 (Chair, Appropriations Committee)(By Request - Departmental - Health)

Appropriations Budget and Taxation

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

---

This emergency departmental bill reinitiates and extends for up to two years an exemption for State retirees who are rehired by the Maryland Department of Health (MDH) for specified purposes from a statutory earnings limitation that applies to retirees of the State Retirement and Pension System (SRPS). Specifically, if a State retiree is rehired by MDH for no more than five years to assist in the administration of federally funded grants related to the COVID-19 pandemic or to serve on the COVID Unified Command, the retiree is 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, 2024.**

Fiscal Summary

State Effect: Since the bill applies in a limited number of cases, it has no material effect on State pension liabilities or contribution rates. Any offsets already taken in 2023 must be repaid to affected retires who were rehired. No effect on revenues.

Local Effect: None.

Small Business Effect: MDH 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. That exemption terminated December 31, 2021, but was renewed for an additional year (through December 31, 2022) by Chapters 57 and 58 of 2022.

Background: MDH advises that, under the initial exemption granted by the BRFA of 2021, it hired about five retirees, some of whom continue to be employed in various capacities to assist in managing the State's response to the COVID-19 pandemic.

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

Additional Comments: As the previous exemption terminated year-end 2022, the retirees who continue to work for MDH have been subject to an offset in 2023. Because the bill applies the exemption retroactively to January 1, 2020 (the starting date for the initial exemption), any such offset taken must be repaid. Also, additional retirees may be rehired by MDH, without an offset, if their assignments fall within the parameters of the bill.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 417 and SB 402 of 2022 (enacted as Chapters 57 and 58 of 2022).

Designated Cross File: None.

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

Fiscal Note History: First Reader - March 16, 2023
js/ljm Third Reader - April 5, 2023
Revised - Amendment(s) - April 5, 2023

Analysis by: Michael C. Rubenstein

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

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

BILL NUMBER: HB 1274

PREPARED BY: Department of Health

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

_____ WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS