

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 537

(Delegate B. Barnes)(Chair, Joint Committee on
Pensions)

Appropriations

Budget and Taxation

Teachers' Retirement and Pension Systems - Reemployment of Retirees -
Clarification

This bill clarifies that a local school superintendent or the Maryland School for the Deaf (MSD) may hire no more than a *combined total* of five retirees of the Teachers' Retirement System (TRS) and Teachers' Pension System (TPS) to work in any position at any school without the teachers being subject to a reduced retirement allowance.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill is clarifying in nature and is not expected to have a meaningful effect on State pension liabilities or contribution rates. MSD has reduced flexibility to rehire TRS/TPS retirees to work in any position at the school, but this operational effect is not expected to affect school finances. No effect on revenues.

Local Effect: The bill has an operational effect on local school superintendents, who have reduced flexibility to rehire TRS/TPS retirees to work in any position at any school. However, the bill has no fiscal effect on local revenues or expenditures.

Small Business Effect: None.

Analysis

Current Law: Chapter 189 of 2015 allowed each local school superintendent and MSD to hire up to five retirees of TRS *and* up to five retirees of TPS to work in any position at

any public school and be exempt from any retirement benefit reduction. This broad exemption replaced provisions that allowed local superintendents to rehire up to 15 additional TRS/TPS retired teachers to work in specified schools or subject areas without a benefit reduction. Chapter 189 also included related reporting requirements for local school systems, MSD, and the Maryland State Department of Education.

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 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: In addition to the TRS/TPS retirees who may be hired under Chapter 189 of 2015 without a reduction in pension benefit payments, retired teachers in TRS or TPS who are rehired by their former employer on a contractual basis do not have their pension benefit reduced if they are 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.

Background: As enacted, Chapter 189 allows each local school superintendent and MSD to rehire up to 5 TRS retirees and 5 TPS retirees, or a total of 10 retirees, who can work in any position at any school while being exempt from the benefit reduction. In response to queries from local school districts, the State Retirement Agency sought clarification from the General Assembly regarding legislative intent, specifically whether the General Assembly intended to allow local superintendents to rehire five retirees from each of the two systems or a combined total of five retirees from both systems. The Joint Committee on Pensions agreed to sponsor this legislation to clarify that local superintendents can rehire a combined total of five retirees from the two systems.

As the new authority under Chapter 189 to rehire TRS/TPS retirees has been in place for less than one year, there is no information on the extent to which local school systems have made use of their authority. Previous authority to rehire TRS/TPS retirees who were exempt from the benefit reduction for specified positions was seldom used.

Additional Comments: NCLB was the 2001 reauthorization of the federal Elementary and Secondary Education Act. The most recent reauthorization, The Every Student Succeeds Act, was signed into law in December 2015. Several provisions of NCLB are no longer authorized, including the AYP requirement.

Additional Information

Prior Introductions: None.

Cross File: SB 373 (Senator Peters)(Chair, Joint Committee on Pensions) - Budget and Taxation.

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

Fiscal Note History: First Reader - February 10, 2016
md/rhh

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