

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 236

(Senator Elfreth)(Chair, Joint Committee on Pensions)

Budget and Taxation

Appropriations

Teachers' Retirement and Pension Systems - Obsolete Reemployment Provisions

This bill updates obsolete provisions related to the reemployment of teachers and principals who are retirees of the Teachers' Retirement System (TRS) and Teachers' Pension System (TPS) and makes a technical correction regarding the length of reemployment allowed by statute. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: None. The bill updates obsolete provisions that have no effect on State pension liabilities. No effect on revenues.

Local Effect: None.

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

Chapter 196 of 2016 authorized a local school superintendent or the Maryland School for the Deaf to hire a combined total of five retirees from either TRS or TPS to work in any position at any school without the teachers being subject to a reduced retirement allowance. In addition to the TRS/TPS retirees who may be hired under Chapter 196 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: The federal NCLB Act of 2001 reauthorized the Elementary and Secondary Education Act of 1965. It was superseded by the federal Every Student Succeeds Act of 2015, which altered provisions related to schools in need of improvement, including repealing the requirement to calculate AYP. As the references to NCLB and AYP in the reemployment provisions described above are now obsolete, the Board of Trustees of SRPS asked the Joint Committee on Pensions (JCP) to sponsor legislation removing the obsolete references from the statute, including from related reporting requirements, and JCP agreed to sponsor the legislation. The bill now references the original Elementary and Secondary Education Act so that any future reauthorizations at the federal level do not require similar statutory updates at the State level.

Recent data on the number of exempt retirees who are reemployed under the current exemptions is not available. The *2016-2018 Maryland Teacher Staffing Report* by the Maryland State Department of Education reported that, during school year 2015-2016, 23 teachers and principals were reemployed under the statutory reemployment exemption provisions.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 251 (Delegate M. Jackson)(Chair, Joint Committee on Pensions) - Appropriations.

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

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