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PSERS; RETIREE EARNINGS LIMIT

House Bill 6039 as passed by the House
Second Analysis (10-1-98)

Sponsor: Rep. Kirk A. Profit
Committee: Public Retirement

THE APPARENT PROBLEM:

Under the Public School Employees Retirement Act, certain restrictions are placed on the practice of retirees becoming re-employed by a "reporting unit" (a public school, intermediate school district, charter school, community college, etc.). These include a limit on the amount that can be earned without affecting the retiree's pension. If a retiree becomes employed by a reporting unit, the retiree's pension is reduced if earnings exceed either: a) 1/3 of the retiree's final average compensation (increased 5 percent per year), or b) the maximum earnings permitted under the federal Social Security Act. The pension is reduced by the full amount that earnings exceed the lesser of the two limitations.

These restrictions apply only to re-employment with a PSERS "reporting unit" (but not to employment with other employers). Prior to the passage of Public Act 272 of 1995, certain public universities (though not all) were participants in the Public School Employees Retirement System. The 1995 legislation exempted the future employees of those universities from participation in the system. After January 1, 1996, the term "reporting unit" in the statute does not include a university unless it has pre-1996 employees who are members of the retirement system. Thus, some suggest that the seven affected universities (Eastern, Western, Northern, Central, Michigan Technical, Lake Superior State, and Ferris State) should not be considered to be "reporting units" in the same sense that other educational agencies are, and that post-retirement employment with one of these universities should not adversely affect the pension of a public school retiree. In fact, the salary cap has reportedly made it difficult for these universities, and in particular, their schools of education, to make use of the resources of retired school personnel in training the next generation of teachers.

Further, the salary cap is said to be an obstacle to using retired personnel to fill, even on a limited basis, certain high-demand teaching positions, such as special education positions or substitute teaching positions.

THE CONTENT OF THE BILL:

House Bill 6039 would amend the Public School Employees Retirement System Act to increase the earnings limitation (applicable to PSERS retirees whatever the post-retirement employment situation); to make a specific exception to the earnings limitation for post-retirement employment with one of the seven universities that were formerly part of the PSERS; and to create an exception to the earnings limitation for post-retirement employment with other reporting units in the case of an emergency situation.

• The bill would increase the earnings limitation on post-retirement employment by a retiree, which is currently set at the lesser of either a) 1/3 of the retiree's final average compensation (increased 5 percent per year), or b) the maximum earnings permitted under the federal Social Security Act. Under the bill, the first component of the earnings limitation would be increased from 1/3 to ½ of the retiree's final average compensation.

• The bill would specify that the earnings limit would not apply to a retiree who works for a university that is no longer a member of the system (but for having employees who were members before the 1995 legislation took effect) if the retiree is not eligible to use any service or compensation attributable to the employment for a recomputation of his or her retirement allowance.

• The bill would specify that the earnings limit would not apply to post-retirement employment by a reporting unit (e.g., a school district), under certain limited circumstances. The bill would allow post-retirement employment by a retiree without affecting the retiree's pension if the reporting unit had an emergency situation -- not including a labor dispute -- that necessitated the hiring of a retiree in order to prevent depriving students of an education. The chief executive officer of the reporting unit would have to notify the state superintendent of public instruction of the existence of such an emergency situation, including documentation to support the contention that the reporting unit had been unable to fill a vacancy with qualified personnel. (This would include evidence of unsuccessful efforts to recruit applicants through such means as advertising the open position, listing the position with college and university placement offices or other employment agencies, and notifying other appropriate agencies, employee unions, and professional associations.) The state superintendent would have to approve the plan for the bill's exception to apply. Further, the emergency employment could not exceed one year, and the retiree could not be eligible to use the service or compensation attributable to the post-retirement employment for a recomputation of her or her retirement allowance.

MCL 38.1361

FISCAL IMPLICATIONS:

The Department of Management and Budget reports that the bill would result in a cost increase to the system, as pensions that otherwise would have been offset due to earnings limitations would instead be paid. Further, the department notes that the bill would encourage members to retire earlier than they otherwise would have to take advantage of job opportunities at the seven universities. This in turn would increase both pension and health care costs. (10-1-98)

ARGUMENTS:

For:

The earnings limitation on post-retirement employment by PSERS retirees has made it difficult for the seven universities that were previously affiliated with PSERS to attract retired school personnel to work in their education departments. These universities are, for practical purposes, no longer part of the retirement system (as no new employees enter into PSERS, but rather have a different type of retirement program). However, legally they are still considered to be "reporting units" and so the earnings limit applies. Other universities, such as Michigan State, the University of Michigan, and Wayne State, are able to attract this group of retirees, as employment there has no effect on the retirees' pension. This creates an inequity that needs to be addressed through legislation.

For:

By allowing a retiree to take a teaching job for up to one year without affecting his or her pension, the bill would assist school districts in filling certain positions that have been difficult to fill, such as special education posts and other specialized fields. Further, increasing the earnings limitation from 1/3 to ½ of a retiree's final average compensation would allow some retired teachers to take more substitute teaching assignments without incurring a financial penalty, and this would help ease the chronic shortage of substitute teachers that many districts face.

Against:

While solving an inequity between universities, the bill would create another inequity -- one between the affected seven universities and other reporting units of the retirement system. School districts, community colleges, intermediate school districts, and charter schools would be put at a disadvantage in trying to hire these retirees because of the earnings limitation. Further, it is likely that this bill, in carving out exceptions to the earnings limitation provision, will spawn other requests from reporting units or specific groups of retirees for more exceptions. This will prove costly to the retirement system and also could contribute to a public perception of retirees "double dipping", by collecting both a full pension and a salary.

POSITIONS:

The Michigan Federation of Teachers and School-Related Personnel supports the bill. (9-30-98)

The Department of Management and Budget opposes the bill. (10-1-98)

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.