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PSERS; RETIREE EARNINGS LIMIT

House Bill 4082 as enrolled
Public Act 68 of 1999
Second Analysis (7-6-99)

Sponsor: Rep. Gerald Law
House Committee: Senior Health, Security and Retirement
Senate Committee: Education

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. Reportedly, school districts across the state are experiencing difficulties filling teaching positions with skilled and qualified teachers, and this is particularly a problem in the Detroit School District. As the Detroit Reform School Board begins to work on overhauling the administration of that district, one of its goals is to address the shortage of certified instructors in Detroit classrooms. At the request of Detroit school officials, the Engler administration is recommending a relaxation in the restrictions on earnings that affect public school employee retirees. It is felt that this would allow Detroit and other districts to bring in skilled, experienced teachers to fill critical teaching positions.

THE CONTENT OF THE BILL:

The bill would amend the Public School Employees Retirement System Act 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 certain exceptions to the earnings limitation for post-retirement employment with other reporting units in the case of an emergency situation.

• The bill would specify that the earnings limit would not apply to a retiree who is a former teacher or administrator and who works in a teaching or research capacity 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. A university that employed retirees in this manner would have to report such employment to the retirement system by July 1 of each year, specifying the names of the employed retirees, the capacity in which they are employed, and total annual compensation of each retiree.

• The bill would specify that, until July 1, 2002, 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 make two exceptions to 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 emergency employment could not exceed three years, 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. The emergency exceptions would only apply to retirees who retired before July 1, 1999.

-- The first exception would be for a reporting unit that had an approved emergency situation. In such a case, the chief executive officer or superintendent of the reporting unit would have to notify the state superintendent of public instruction of the existence of such an emergency situation, including documentation showing that, for the 1998-99 school year, more than eight percent of all classes in the district were taught by full-time substitute teachers who were not certified in the subjects or grade levels which they taught. Within 30 days after receiving such notification, the Department of Education would have to notify the district of its approval or disapproval of the emergency situation. If approved, the district could employ a retiree as a teacher or principal, and such employment would not affect the retiree's pension.

-- The second exception would be for a reporting unit who needed to hire a retiree to teach in a "critical shortage discipline". The state superintendent would be required to compile a listing of such disciplines by July 1, 1999, and update the listing annually.

MCL 38.1361

BACKGROUND INFORMATION:

A similar bill, House Bill 6039, passed the House in the 1997-98 legislative session.

FISCAL IMPLICATIONS:

According to the Department of Management and Budget, the total number of individuals expected to be affected by the bill is not significant enough to have an actuarial impact on the retirement system. However, eligible retirees who will be able to return to work without earnings limitations will be significantly affected, as they will able to retain their entire pension plus their salary. In addition, the retirement system is responsible for providing health insurance for these eligible retirees. (6-22-99)

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.

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.

For:

By allowing a retiree to take a teaching job for up to three years without affecting his or her pension, the bill would assist school districts in filling certain positions that have been difficult to fill, such as in special education, math, science, language and technical fields. It might also include such positions as principals or school psychologists. Further, the bill would allow certain districts to hire retirees for other positions, if the district met a threshold specified in the bill for general teaching shortages. Reportedly, many districts are filling these spots with people who hold a bachelor's degree but not in education, who have been granted emergency credentials to fill jobs. In particular, Detroit has at least 750 such positions this school year, and the new reform school board has set a goal of hiring 1,000 new teachers for next school year.

Against:

The enrolled version of the bill does not go far enough. Earlier versions of the bill would have generally increased the earnings limitation -- from 1/3 to 1/2 of final average compensation -- for retirees returning to work for reporting units (generally school districts and community colleges). With wages generally increasing and pensions growing more slowly (if at all), many more retirees may be bumping up against the earnings limitation. An increase would allow retirees to do more work after retirement, benefiting both their own family incomes and helping to fill positions that might otherwise go unfilled by qualified personnel. In particular, these retirees might be able to help ease the chronic shortage of substitute teachers that many districts face. According to a survey of intermediate school districts conducted for the Michigan Association of Intermediate School Districts, of 51 intermediate districts responding to the survey, 40 reported difficulty finding sufficient numbers of qualified substitute teachers, despite legislative efforts in recent years to ease requirements so as to increase the potential pool of substitutes.

Against:

Retirement systems typically impose post-retirement earnings limitations (as does the IRS) to prevent the abuse of the system by what is sometimes called "double-dipping", i.e., allowing a person to retire, collect a full pension, and immediately return to work for the same employer in some form, such as a contractual employee, and to simultaneously be paid both a salary and a pension. In the case of public employers, this is seen as particularly egregious, as public funds are being used to subsidize private gain. To increase the earnings limitation to this extent is seen as tipping the balance too far away from this traditional practice, and setting up a situation whereby the retirement system would be subsidizing the costs of other employers (as the retiree has an incentive to retire earlier, collects his or her pension for a longer period, and is eligible for health care benefits at the retirement system's expense).

Response:

There is no limitation on earnings for a retiree who goes to work for another employer that is not a "reporting unit". Thus, a school employee could go to work full time for state or local government, collect a pension, and collect a salary -- all with public dollars. This bill would simply allow school retirees to earn up to half their previous salary in the field in which they are trained and qualified, and where there is a tremendous need for their services.

Analyst: D. Martens

■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.