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**SFA****BILL ANALYSIS**

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House Bill 4082 (Substitute H-2 as passed by the House)  
Sponsor: Representative Gerald Law  
House Committee: Senior Health, Security and Retirement  
Senate Committee: Education

Date Completed: 6-8-99

### **CONTENT**

**The bill would amend the Public School Employees Retirement Act to increase the allowable amount of postretirement earnings; and to exempt from the Act's provisions on recomputing a retirement allowance upon re-employment, a retirant who was either of the following:**

- **Employed by a reporting unit that had an approved emergency situation that necessitated the hiring of a retirant to prevent depriving students of an education. (This exemption would apply until July 1, 2002.)**
- **Employed by a university that was considered a reporting unit, if the retirant were not eligible to use any service or compensation from that employment to recompute his or her retirement allowance.**

(The Act defines "reporting unit" as a public school district, intermediate school district, public school academy, tax-supported community or junior college, or university, or an agency having on its payroll employees who are members of the retirement system. The reporting unit must be the employer for purposes of the Act. Since January 1, 1996, "reporting unit" has not included a university, except to the extent that it has on its payroll employees who are members of the retirement system.)

### **Retirement Allowance**

Under the Act, if a retirant is receiving a retirement allowance other than a disability allowance payable under the Act, or under former Public Act 136 of 1945, on account of either age and/or years of personal service performed, and becomes employed by a reporting unit, the following apply:

- The retirant is not entitled to a new final average compensation or additional service credit under the retirement system unless he or she performs additional service that is equivalent to at least five years of service credit or, if the retirant had contributed to the member investment plan, the equivalent of at least three years of service credit. The retirant may elect to have the retirement allowance recomputed based on the added credit and/or the final average compensation resulting from the added service. A retirement allowance may not be recomputed until the retirant pays into the retirement system an amount specified in the Act.
- The retirant's retirement allowance must be reduced by the lesser of the amount that the earnings in a calendar year exceed the amount permitted without a reduction of benefits under the Social Security Act, or one-third of the retirant's final average compensation, which must be increased by 5% for each full year of retirement. The bill would refer to one-half of a retirant's final average compensation.

### **Exemptions**

Under the bill, the Act's provisions on recomputing the retirement allowance of a retirant upon his or her re-employment would not apply under the following circumstances: the retirant was employed by a university that was considered a reporting unit for the limited purpose described in the Act, and the retirant was not eligible to use any service or compensation attributable to the employment at the university for a recomputation of his or her retirement allowance.

Until July 1, 2002, the Act's provisions on recomputation of a retirement allowance upon re-employment would not apply to a retirant, if either of the following circumstances existed:

- The retirant was employed by a reporting unit that had an approved emergency situation, not including a situation caused by a labor dispute, that necessitated the hiring of a retirant to prevent depriving students of an education. The chief executive officer or superintendent of the reporting unit would have to notify the Department of Education in writing that an emergency situation existed, and would have to include documentation supporting the reporting unit's inability to employ qualified personnel to fill a vacancy. Supporting documentation would include evidence of the reporting unit's unsuccessful efforts to recruit qualified personnel through means such as advertising the open position in appropriate mass media, listing the open position with college and university placement offices or other employment agencies, and sending public notification of the open position to appropriate agencies, employee unions, or professional associations. Upon receiving the notification and documentation, the Department would be required to notify the chief executive officer or superintendent and the retirement system of approval or disapproval of the emergency situation. If disapproved by the Department, this provision would not apply.
- The retirant was employed by a reporting unit that had an approved emergency situation, not including a situation caused by a labor dispute, that necessitated the hiring of a retirant in the capacity of a teacher or principal to prevent depriving students of an education. The chief executive officer or superintendent of the school district would have to include with the written notification documentation showing that more than 8% of all classes in the district during the 1998-99 school year were taught by full-time substitute teachers who were not certificated in the subjects or grade levels that they taught. Within 60 days after receiving the notification and documentation, the Department would have to notify the chief executive officer or superintendent and the retirement system of approval or disapproval of the emergency situation. If disapproved by the Department, this provision would not apply.

This exemption would apply only to a retirant who was employed under an emergency situation only for a period of up to three years, and would apply only to a retirant who retired before July 1, 1999. The retirant would not be eligible to use any service or compensation attributable to the employment for a recomputation of his or her retirement allowance.

MCL 38.1361

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

Retirement costs for the State would increase due to the retirement system's having to include income that presently is subject to income limitations, and include that income in the pension payments of the rehired employees. This could result in employees' retiring earlier to take advantage of future rehiring opportunities and a chance at an increased pension. This could result in higher pension costs to the system that are not presently accounted for and thus increase the system's unfunded liabilities.

Local reporting units could be adversely affected by an increase in their retirement contribution rates to the retirement system. The increased retirement rate would be due to the increase in the system's unfunded liabilities that could result from the enactment of this legislation. The exact dollar amount of the impact is indeterminable.

Fiscal Analyst: J. Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.