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BILL ANALYSIS

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House Bill 5760 (Substitute H-1 as reported without amendment)
Sponsor: Representative David Palsrok
House Committee: Education
Senate Committee: Education

Date Completed: 5-2-06

RATIONALE

Many rural and inner-city school districts experience a shortage of principles, teachers in certain subjects, and, sometimes, superintendents. Retired school employees are often recruited to fill these spots, because they tend to be highly qualified and willing to work for a few years until the district can find a more permanent employee. Districts also benefit because they do not have to pay for the retirants' medical or retirement benefits. Retirants gain because they receive their retirement allowance in addition to the pay they earn from their new jobs. In most cases, in order to prevent "double dipping", a retirant's pension is reduced when this postretirement pay reaches a certain amount, as required under the Public School Employees Retirement Act.

In some cases, however, retirants are not subject to these limitations. Public Act 68 of 1999 exempted retirants from having their retirement benefits reduced if they were hired by a district experiencing an "emergency situation" (as defined in the Act). Initially, that exemption was set to expire on July 1, 2002, but Public Act 30 of 2001 extended the exemption until July 1, 2006, and expanded it to include teachers needed to fill "critical shortage disciplines", or subjects in which there is a critical shortage of highly qualified instructors. Some have suggested that the exemptions be extended to allow retired teachers to continue assisting in emergency situations and critical shortage disciplines while collecting their full pension.

CONTENT

The bill would amend the Public School Employees Retirement Act to extend until July 1, 2011, provisions that allow retired employees to work for certain school districts without a reduction in their retirement allowance. The current provisions are to expire on July 1, 2006.

Under the Act, if a retirant is receiving a retirement allowance other than a disability allowance, and becomes employed by a reporting unit (i.e., a public school district, intermediate school district, public school academy, tax-supported college or university, or agency with employees who are members of the retirement system), his or her retirement allowance must be reduced by either the amount that his or her earnings exceed the amount permitted without a reduction in benefits under the Social Security Act, or one-third of his or her final average compensation (increased by 5% for each full year of retirement), whichever amount is smaller.

Until July 1, 2006, those provisions do not apply to a retirant who is employed for six years or less by a reporting unit that has one of the following:

-- An approved emergency situation, not including a situation caused by a labor dispute, in which hiring a retirant in the capacity of a teacher, principal, stationary engineer, or administrator is necessary to prevent depriving students of an education.

-- A critical shortage discipline, as identified by the State Superintendent of Public Instruction.

The retirant is not eligible to use any service or compensation attributable to the employment under those provisions for a recalculation of his or her retirement allowance.

The bill would extend those exceptions until July 1, 2011.

Currently, the exceptions apply only to retirants who retired on or before July 1, 2003. Under the bill, they would apply to retirants who retired on or before January 1, 2006.

MCL 38.1361

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The current exemptions allow school districts to hire retired teachers and administrators in cases in which other qualified individuals may not be available. These exemptions have worked well to ease teacher shortages and helped the State to comply with the highly qualified teacher requirements of the Federal No Child Left Behind Act. By extending the exemptions until 2011, the bill would allow the continuation of this successful policy.

Opposing Argument

The bill would extend the exemptions to those who retired after January 1, 2006, rather than July 1, 2003--a date set by Public Act 5 of 2004. There are potential problems with changing the date in this manner. Some individuals who had been retired for only a matter of months could be eligible for the exemptions, and could return to work immediately for the same school district. Such a short turnaround time could create a perception that retirants were taking advantage of the system to collect retirement benefits while continuing to earn a salary. In the past, retirants have had to go through a "cooling off period" before returning to work for the school district, which avoided any questions regarding "double dipping" of benefits and salaries.

In addition, setting a specific cutoff date unnecessarily limits the pool of prospective retirants who may participate in the plan. Over the next several years, many qualified teachers and administrators will retire after January 1, 2006, but would be ineligible for the exceptions extended by the bill. Rather than setting a new cutoff date, the bill should specify that the exceptions would apply only to those who had been retired for at least a year. Such a provision would create a bigger pool of qualified retirants, while providing an adequate cooling off period for individuals before they returned to work.

Opposing Argument

Many agree that the exemptions are good policy, and in fact they have been extended once before, as mentioned above. To prevent the need to revisit the issue every few years, the bill should eliminate the sunset altogether.

Response: The sunset provision is an important part of the policy, ensuring a periodic review of the exemptions to verify that they are working as planned. If the sunset were removed, any problems could go unnoticed for an extended period.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe 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.