

Legislative Analysis



PUBLIC SCHOOL RETIREES RE-EMPLOYMENT

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House Bill 4593 (Substitute H-6)

Sponsor: Rep. Tim Melton

Committee: Education

First Analysis (6-12-08)

BRIEF SUMMARY: The bill would extend from six years to eight years, the maximum time a public school retiree could work in a school following retirement; remove the July 1, 2011 sunset in the law; require school districts to pay 50 percent of a rehired retiree's health care to the retirement system after the third year, and 100 percent in the fourth and subsequent years of employment; and require the State Board of Education to approve or disapprove a local school district's request to fill positions with retired teachers.

FISCAL IMPACT: A fiscal analysis is in process.

THE APPARENT PROBLEM:

Many rural and inner-city school districts experience a shortage of principals, 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 post-retirement pay reaches a certain amount, as required under the Public School Employees Retirement Act.

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 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 five percent for each full year of retirement), whichever amount is smaller.

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, as identified by the state superintendent of public instruction. Then Public Act

158 of 2006 extended the exemption until July 1, 2011, so that retired teachers could continue to assist in emergency situations and critical shortage disciplines while collecting their full pension. See *BACKGROUND INFORMATION* below.

Legislation has been introduced to remove the exemption's sunset date entirely, to extend the number of years a retiree could teach from six years to eight, and to require that school districts pay for their rehired retirees' health care benefits.

MCL 38.1361

THE CONTENT OF THE BILL:

House Bill 4593 (H-6) would amend the Public School Employees Retirement Act to extend from six years to eight years, the maximum time a public school retiree could work in a school following retirement.

Currently under the law, until July 1, 2011, a retiree can be employed by a school district that has an emergency situation depriving students of an education without a reduction in pension. House Bill 4593 would eliminate the July 1, 2011 sunset date.

An "emergency situation" is determined by the state superintendent of public instruction. (Since July 1999, the state superintendent has been required to issue an annual list of critical shortage disciplines.) Under authorized emergency conditions, a retiree who has been retired for at least 12 months can be hired as a teacher, principal, stationary engineer, administrator, or other approved category. The emergency employment cannot be used to re-compute a retirement allowance.

Currently under the law, a retirant employed under an emergency situation can be employed for a period not to exceed six years. House Bill 4593 would retain all of the provisions noted above, but extend the period of possible employment from six to eight years.

House Bill 4593 also would require, on an annual basis, the chief executive officer or superintendent of a school district to include with any written notification of shortages sent to the superintendent of public instruction, evidence that more than eight percent of all classes in the district during the 2007-2008 school year were taught by full-time substitute teachers who were not certificated in the subjects or grade levels which they taught. The chief executive officer or superintendent would also have to include documentation that the district had posted the position with colleges, universities, and other recruiting placement sources, and had been unable to employ a qualified person for each position.

Under the bill, each notice of inadequate staffing sent to the state superintendent would have to be approved or disapproved by the State Board of Education. Within 30 days after receiving such notification and the required documentation, the Michigan

Department of Education must notify the school district and the retirement system of its approval (or disapproval) of the emergency situation.

The bill specifies that if a reporting unit (in this case, a school district) employs a retirant for at least three and less than four years, it would be required to pay to the retirement system an amount equal to 50 percent of the contribution rate for health benefits for each retirant who became employed. If the retirant was employed for four years or more, then the reporting district would be required to pay 100 percent of the contribution rate for health benefits to the retirement system for each retirant who became employed by the district.

The bill would require that a school district employing a retirant report the employee to the retirement system within 30 days of employment. That report would include the name of the retirant, the capacity in which the retirant was employed, and the total compensation paid to the retirant by the reporting unit, or the compensation paid to the retirant through a contractual arrangement.

As used in the legislation, the term "*becomes employed by a reporting unit*" means directly hired by a reporting unit, hired as an independent contactor by a reporting unit, or indirectly hired by a reporting unit through a contractual arrangement with third parties, to fill a vacant or created position for the reporting unit through a contractual arrangement. A retirant who is an employee of a company that does business with a reporting unit but who is not replacing a vacant, or filling a created, position with the reporting unit or working full-time at the reporting unit in fulfilling his or her duties with the company that does business with the reporting unit, is not employed by a reporting unit.

MCL 38.1361

BACKGROUND INFORMATION:

The state superintendent of public instruction is required to compile a list of teaching and learning disciplines having critical teacher shortages by July 1, and update the list annually.

Michigan Department of Education Critical Teacher Shortage Areas 2007-2008

Principal	Assistant Principal	Superintendent
Guidance Counselor	Dir of Special Education	Supv of Special Education
School Psychologist	Occupational Therapist	Physical Therapist
Mobility Specialist	Speech & Lang Therapist	Agriscience & Nat Resources
Allied Health	Arabic	Autism
Auto Body Repair	Bilingual Spanish	Business Services

Child Care & Guidance	Computer Science	Construction Trades
Electronics	Emotionally Impaired	Food Management
Graphics Printing	Health Sciences	Hearing Impaired
Industrial Technology	Learning Disabilities	Machine Shop
Mathematics	Marketing & Distribution	Cognitively Impaired
Nursing Occupations	Physical Impairment	Radio & TV Production
Science	Special Ed Resource Room	Speech & Language Impaired
Visually Impaired	Welding	

ARGUMENTS:

For:

The current exemptions, in effect until July 1, 2011, allow school districts to hire retired teachers and administrators in cases in which other qualified individuals may not be available; however, the rehired retirees cannot work for more than six years. 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 eliminating the 2011 sunset and allowing rehired retirees to work up to eight years while requiring school districts to cover their health insurance costs, the bill would allow the continuation of this successful policy.

By extending the exceptions made by the 1999, 2001, 2004, and 2006 legislation, the bill would continue a policy that has assisted school districts in filling certain positions that have been difficult to fill, such as in special education, math, science, language and technical fields. And in some cases, such an exception will allow a district to continue offering a program that otherwise would have to be discontinued for lack of a teacher.

Against:

Many agree that the exemptions are good policy, and in fact they have been extended twice before, as mentioned above. To prevent the need to revisit the issue every few years, the bill has eliminated the sunset altogether. However, the sunset provision should be reinstated, since it is an important part of the policy, ensuring a periodic review of the exemptions to verify that they are working as planned. With the sunset removed, any problems may well go unnoticed for an extended period.

POSITIONS:

The Michigan Education Association supports the bill. (6-10-08)

The American Federation of Teachers - Michigan supports the bill. (6-10-08)

The Michigan Association of School Administrators supports the bill as introduced. (6-10-08)

The Michigan Association of School Boards supports the bill as introduced. (6-10-08)

The Department of Management and Budget Retirement Services is neutral on the bill. (6-10-08)

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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.