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BILL ANALYSIS

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House Bill 4059 (Substitute S-7 as reported by the Committee of the Whole)
Sponsor: Representative Holly Hughes
House Committee: Financial Liability Reform
Senate Committee: Education

CONTENT

The bill would amend the Public School Employees Retirement Act to do the following:

-- Reenact, until July 1, 2018, expired provisions that allowed a public school retiree to work in an area identified as a critical shortage discipline, as a substitute teacher, or as an instructional coach or school improvement facilitator, without losing his or her pension.
-- Require, until July 1, 2018, the reporting unit in a critical shortage area at which a retiree was hired by an entity other than a reporting unit or as an independent contractor to pay 100% of the contribution rates for unfunded actuarial accrued liability for retiree health care and pension for that employment.
-- Require a person rehired as a substitute teacher, instructional coach, or school improvement facilitator to have retired between June 30, 2010, and September 1, 2015.
-- Require the Department of Education to compile a listing of critical shortage disciplines and evidence of the shortages by April 1 annually, and post the listing and evidence on its website.
-- Allow two or more contiguous reporting units to request that the Superintendent of Public Instruction add a discipline to the listing of critical shortage disciplines.
-- Specify that a retiree who retired after June 30, 2010, was reemployed by a reporting unit, and met other conditions, would forfeit his or her pension and health care benefits for the entire month of each month in which he or she was reemployed by the unit instead of through the last day of reemployment.
-- Make an exemption to that forfeiture requirement for a former teacher or administrator employed by a university that is a reporting unit, who retired after June 30, 2010.
-- Specify that a retiree's retirement allowance and retirement system subsidy for health care benefits would resume without recalculation on the first of the month following the month in which the retiree had terminated his or her employment.

MCL 38.1361 Legislative Analyst: Jeff Mann

FISCAL IMPACT

To the extent the extended critical shortage exemption (allowing MPSERS retirees to collect both a pension and an active wage under certain conditions) led to more retirements, or earlier retirements, than actuarially assumed, there would be additional liabilities in the Michigan Public School Employees Retirement System (MPSERS) related to additional pension and health care benefits paid out to those retirees. However, the requirements for the critical shortage exemption that would have to be satisfied likely would lead to a fairly narrow use of the provision.

Specifically, as currently required, retirees would have to be retired at least one year, the length of reemployment under the exemption could be not more than three years, the retiree would have to be reemployed in a critical shortage field, and reporting units would have to pay unfunded accrued liability (UAL) percentages for these rehired retirees, whether directly or indirectly rehired. Also, the sunset would be delayed for a period of three years. Because of these conditions, it is likely that the negative fiscal impact on MPSERS would be fairly insignificant, and there could be some positive benefit to the system because of the new requirement that reporting units make payments toward UAL for people rehired in critical shortage areas as independent contractors.

An MPSERS reporting unit considering using the critical shortage exemption provision would have to determine whether hiring a retiree under the critical shortage provision would be to the benefit of the reporting unit. The reporting unit would not have to pay active health care benefits, but would have to pay the UAL costs for these rehired retirees.

It is likely that numerous retirees would seek to use the extended sunset for the substitute teacher and instructional coach/school improvement facilitator provisions, but because this exemption would allow only individuals already retired (as of September 1, 2015) to use the provisions, there would be no incentive to retire earlier than otherwise planned; therefore, there would be no negative impact on the status of the MPSERS unfunded accrued liabilities. Additionally, since reporting units would have to pay 100% of the employer retirement and health accrued liability contribution rates regardless of whether the rehired retiree was directly or indirectly hired, there could be some positive benefit to the system.

An MPSERS reporting unit considering using the substitute teacher or instructional coach/school improvement facilitator provision would have to determine whether hiring a retiree under the provision would be to the benefit of the reporting unit. The reporting unit would not have to pay active health care benefits, but would have to pay the unfunded accrued liability costs for these rehired retirees, whether directly or indirectly rehired.

There would be no fiscal impact associated with the proposed change clarifying that a retirement allowance and health care benefits would resume on the first of the month following the month in which a retirant had terminated his or her reemployment, because that change simply would codify current practice.

There would be a negative fiscal impact associated with the amendment that would allow retirees who retired after June 30, 2010, to return to work at a participating MPSERS university without forfeiting pension and health care benefits when the reemployment earnings exceeded one-third of the retiree's final average compensation. The fiscal impact would occur because there would be an incentive for retirees in this situation to retire earlier than otherwise assumed by the System's actuary, thereby drawing more pension payments than estimated or funded. However, an estimate of the impact is difficult to determine because it would require an actuarial analysis of the length of time the retirees would have an incentive to retire earlier than assumed. In addition, the amendment could result in further stranded costs, if people left the active member payroll and returned as retirees, thereby reducing the payroll upon which contributions are applied.

There were a total of 190 such retirees who returned to work at some point in 2015 (to date) at a participating university, with 46 of them employed during the month of October. While this is a small number, it is possible that the amendment would give more people an incentive to seek reemployment postretirement since the forfeiture provision would be eliminated under this bill. Also, since there would be no sunset or limit on the elimination of the forfeiture provision, this could produce long-term costs, and there also would be no requirement for the employing universities to cover any unfunded accrued liability costs associated with the returning retiree(s). The costs would be equal to the number of years that a retiree left work earlier than planned, multiplied by the number of people seeking reemployment at participating universities, multiplied by the pension payments received during the years retired earlier than planned.

Date Completed: 11-5-15 Fiscal Analyst: Kathryn Summers

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