Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4059 (Substitute S-5)
Sponsor: Representative Holly Hughes
House Committee: Financial Liability Reform
Senate Committee: Education

Date Completed: 10-13-15

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 post a listing of critical shortage disciplines 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 in which he or she was reemployed by the unit instead of through the last day of reemployment.**

Suspension of Forfeiture, Reenactment

Generally, if a Michigan Public School Employees' Retirement System (MPSERS) retiree who retired before July 1, 2010, is employed by a reporting unit, his or her retirement allowance must be reduced by the amount that the earnings in the calendar year exceed the lesser of the amount permitted without a reduction of benefits under the Social Security Act, or one-third of the retiree's final average compensation. (Generally, if a retiree earns more than one-third of his or her final average compensation during reemployment, the retiree must forfeit an amount so that the reemployment earnings do not exceed one-third of final average compensation.)

In addition, for a public school retiree who retires or retired on or after July 1, 2010, and is reemployed by a reporting unit, if his or her earnings in a calendar year exceed one-third of the retiree's final average compensation, the retirant forfeits his or her retirement allowance and retirement health system subsidy for health care benefits as long as he or she is employed by the unit, except as otherwise provided.

Until July 1, 2014, the forfeiture requirements described above did not apply to any of the following who retired on or after July 1, 2010:

-- A retirant who was employed for not more than three years, and after at least 12 months of retirement, by a reporting unit in an area that had been identified by the Superintendent of Public Instruction as a critical shortage discipline.
-- A retirant who became employed as a substitute teacher by a reporting unit, by an entity other than a reporting unit, or as an independent contractor.
-- A retirant who became employed as an instructional coach or a school improvement facilitator by an entity other than a reporting unit or as an independent contractor.

In the case of a retirant who became employed as a substitute teacher, an instructional coach, or a school improvement facilitator, the retirant's earnings attributable to employment by or at a reporting unit in a calendar year could not exceed one-third of his or her final average compensation. In the case of a retirant who became employed in a critical shortage area, there was no cap on the retirant's reemployment earnings.

Also, with respect to any of the retirants described above, the Act required the reporting unit to pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and for pension to the retirement system for that employment.

The bill would allow a retirant to be employed as described above until July 1, 2018. In the case of employment as a substitute teacher or as an instructional coach or a school improvement facilitator by an entity other than a reporting unit or as an independent contractor, the forfeiture requirements would not apply to a retirant who retired after June 30, 2010, and on or before September 1, 2015. In the case of reemployment in a critical shortage area, the forfeiture requirement would not apply to a retirant who retired at any time.

The bill also specifies that until July 1, 2018, notwithstanding any provision of the Act to the contrary, for a retirant who retired after June 30, 2010, who was employed for not more than three years as an independent contractor at a reporting unit in an area identified as a critical shortage discipline, or was employed at such a reporting unit by an entity other than the reporting unit, and who had been retired for at least 12 months before becoming reemployed, the reporting unit at which the retirant provided services would have to pay 100% of the contribution rates for the unfunded actuarial accrued liabilities for retiree health care and for pension to the retirement system for the employment.

<u>Critical Shortage Disciplines</u>

The Superintendent of Public Instruction must compile a listing of critical shortage disciplines and update it annually. The bill would require the listing to be compiled by April 1 of each year, and require it to be based on evidence of a shortage for each discipline. The Department of Education would have to post the listing and accompanying evidence on its website. If a discipline were not included in the listing of critical shortage disciplines, two or more contiguous reporting units could submit a written request to the Superintendent of Public Instruction to add it to the listing. The request would have to include evidence of a shortage of the discipline in those contiguous reporting units. If the Superintendent determined that there was a shortage, the discipline would have to be added to the listing. A discipline added under such a request would apply only to those contiguous reporting units. For these purposes, a reporting unit that was a public school academy would be considered contiguous to any other reporting unit in which the public school academy was located.

Retired Teachers, Reemployment & Benefits

Under the bill, and except as suspended in situations described above until July 1, 2018, a retiree would forfeit his or her retirement allowance and subsidy for the entire month in which he or she was reemployed by a reporting unit. Currently, a retiree who has forfeited the health benefits subsidy and wants to retain health care benefits must pay the retiree's and the MPSERS's costs for the benefits. Upon termination of employment at the unit, the retirement allowance and health care benefits must resume without recalculation. The bill instead specifies that the retirement allowance and health care benefits would resume without recalculation on the first of the month following the month in which the retirant had terminated his or her employment. (These changes would codify current practice.)

The above changes also would apply to a retirant who performs core services at a reporting unit, but who is employed by an entity other than the reporting unit or is an independent contractor.

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 MPSERS related to additional pension and health care benefits paid out to those retirees who retired earlier than anticipated. 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.

Fiscal Analyst: Kathryn Summers