

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 630  
Appropriations

(Delegate Griffith)(Chair, Joint Committee on Pensions)

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**Teachers' Retirement and Pension Systems - Reemployment of Retirees - Penalty  
for Failure to Submit Certification**

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This bill alters the penalty that local school systems and the Maryland School for the Deaf (MSD) must pay to the State Retirement and Pension System (SRPS) if they fail to report within 30 days that they have hired a teacher or principal who is exempt from a benefit offset. The penalty is set at \$50 per individual for each month a local superintendent fails to submit the certification to SRPS, with a cap of \$1,000 for each individual whose certification is not submitted in the time required.

The bill takes effect July 1, 2014.

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**Fiscal Summary**

**State Effect:** Potential minimal decrease in special fund revenues by SRPS; any decrease is not anticipated to have a discernible effect on State pension liabilities or contribution rates.

**Local Effect:** Potential minimal decrease in penalty payments for local school systems that fail to submit timely certifications to SRPS.

**Small Business Effect:** None.

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## Analysis

### Current Law:

*Benefit Reduction for Reemployed Retirees:* In general, retirees who receive a retirement benefit from the State may be reemployed. In most cases, however, their benefit payment is subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. For members who retire directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction, which is calculated as follows:

Benefit Reduction = [Current annual compensation] + [Initial annual retirement allowance] – [Average final compensation (AFC) at retirement].

As an example, if a member retires with an AFC of \$60,000 and an initial benefit of \$32,400, and is rehired with an annual salary of \$50,000, the offset is equal to:

$$\$50,000 + \$32,400 - \$60,000 = \mathbf{\$22,400}.$$

The retiree's annual benefit, therefore, becomes \$10,000 (\$32,400 – \$22,400), which makes the retiree's total income the same as AFC at the time of retirement (\$60,000).

*Exemptions for TRS/TPS Retirees:* To avoid a reduction in pension benefit payments, retired teachers in the Teachers' Retirement or Teachers' Pensions Systems (TRS or TPS) who are rehired by their former employer on a contractual basis must be reemployed as a classroom teacher, substitute classroom teacher, or teacher mentor in a public school and satisfy at least one of the following criteria by teaching in a public school that:

- is not making adequate yearly progress (AYP) or is in need of improvement under the federal No Child Left Behind Act of 2001 (NCLB);
- has more than 50% of its students eligible for the federal free or reduced-price meals program;
- receives federal funds under Title I of NCLB; or
- provides an alternative education program for adjudicated youth or students who have been suspended, expelled, or identified for suspension from a public school.

The rehired individual also has to teach:

- in an area of critical shortage;
- special education; or
- a class for students with limited English proficiency.

Each school system may also hire from 5 to 15 retired teachers, depending on the total number of teachers in the county, to either:

- teach any subject at an eligible school, as described above; or
- teach in an area of critical shortage, special education, or a class for students with limited English proficiency in any school in the county.

Former principals who are TRS/TPS retirees are also exempt from the benefit reduction if they are reemployed by their former employer in a school that meets any of the qualifications for eligible schools listed above. Teachers and principals do not qualify for the exemption if they work in a school that has made AYP for four consecutive years.

Within 30 days of hiring an exempt retiree, local school systems and MSD are required to certify that they have hired an exempt retiree to the SRPS Board of Trustees and to the Maryland State Department of Education (MSDE). A local school system that mistakenly reports that it has rehired an exempt retiree when the individual is not eligible for the exemption, or that fails to report that it has rehired a retiree who is eligible for the exemption in a timely fashion, must reimburse SRPS for the amount that would have been withheld from the individual.

**Background:**

*Reemployment of Retired Teachers and Principals*

Prior to the imposition of strict conditions on the rehiring of retired teachers and principals imposed by Chapter 499 of 2005, between 775 and 950 retired teachers and principals were rehired by local school systems each year. As shown in **Exhibit 1**, the number of retired teachers and principals who were reemployed by local school systems has been dramatically reduced, with only 28 retired teachers and principals rehired without a benefit reduction during the 2011-2012 school year, the most recent data available from MSDE.

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**Exhibit 1**  
**Retired Teachers and Principals Reemployed by Local School Systems**  
**Select School Years**

	<u>2002-2003</u>	<u>2004-2005</u>	<u>2009-2010</u>	<u>2011-2012</u>
Rehired teacher and principal retirees	950	174	67	28

Source: Maryland State Department of Education

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The State Retirement Agency advises that the penalty provisions for local school systems and MSD that fail to report hiring exempt individuals have had unforeseen consequences. In most cases, these individuals should not, and have not, had their benefits reduced, yet the local school systems have been subject to penalties as high as \$25,000. Benefits for these individuals have not been reduced because SRPS is not aware of their hiring (in the absence of the certification) and, therefore, does not reduce their benefit. However, SRPS eventually becomes aware of their hiring during an annual review of wage files. At that time, SRPS assumes the individuals are subject to a reduction, but the affected retirees are contacted before the offset begins. It is typically during this time that individuals inform SRPS that they are exempt, so no offset is ever taken (following verification of their exemption). Given that there is no foregone offset, SRPS believes that it is inappropriate to charge the schools the amount of the offset.

**State Fiscal Effect:** The new penalty provisions likely reduce the penalties for noncertification paid by local school systems to SRPS. MSD advises that it has submitted all required certification, in a timely manner. MSDE data from fiscal 2012 shows that only 10 local school systems hired exempt retirees, and only 28 exempt individuals were rehired. Therefore, under the bill's provisions, the maximum penalties that SRPS would have collected in fiscal 2012 would have been \$28,000. As noted above, that amount is close to the amount of a single offset for which SRPS has collected a penalty. Nevertheless, the reduction in income is not sufficient to affect the pension fund's overall balance and does not have a discernible effect on State pension liabilities or contribution rates.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 576 (Senator Jones-Rodwell)(Chair, Joint Committee on Pensions) - Budget and Taxation.

**Information Source(s):** Maryland State Department of Education, Maryland School for the Deaf, Maryland State Retirement Agency, Department of Legislative Services

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