Legislative Analysis

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EXPAND PROVISIONS ALLOWING MPSERS RETIREES TO WORK IN CERTAIN CASES WITHOUT LOSING BENEFITS

House Bill 4375 (proposed substitute H-2)
Sponsor: Rep. Steven Johnson

House Bill 5536 as introduced
Sponsor: Rep. Lori Stone

Committee: Education
Complete to 3-22-22

SUMMARY:

House Bill 4375 would amend the Public School Employees Retirement Act to allow retirees in the Michigan Public School Employees' Retirement System (MPSERS) to return to work at a reporting unit in that system without forfeiting their pension or health benefits as long as they have first been retired for at least 12 months. House Bill 5536 would amend the same act to require the Office of Retirement Services to prepare reports on the number of such retirees who are employed at reporting units during specified periods.

The act now generally reduces either pension or retiree health benefits, or both, while a Michigan Public School Employees' Retirement System (MPSERS) retiree returns to work in a ***reporting unit***, with varying reductions depending on the retirement date and the circumstances of the new employment. However, the act also now exempts certain categories of employment from those benefit reductions, such as providing certain services to schools in an identified critical shortage discipline[1] or working as a substitute teacher, instructional coach, or school improvement facilitator.

> ***Reporting unit*** means a public school district, intermediate school district, public school academy, tax-supported community or junior college, or (in limited cases) university or an agency having employees on its payroll who are members of this retirement system.

House Bill 4375 would eliminate most of the current provisions that provide for the reductions and exemptions described above, as well as provisions that now require the reporting unit at which an exempted retiree works to pay to MPSERS 100% of the contribution rate for the unfunded actuarial accrued liabilities for the pension and for the retiree's health care.

Instead, under the bill, a retiree who becomes ***employed at a reporting unit*** would generally forfeit his or her pension and health care benefits for the whole of each month in which the retiree is employed at the reporting unit. A retiree who has forfeited health care benefits under this provision could pay the retiree's and retirement system's costs to retain the benefits. The retiree's pension and health care benefits would resume without recalculation on the first of

[1] The current list of critical shortage disciplines is available at: https://www.michigan.gov/documents/mde/2020-21_Critical_Shortage_Retirees_List_683021_7.pdf

the month following the month in which the retiree ended the retiree's employment at a reporting unit.

> ***Employed at a reporting unit*** would mean employed directly by a reporting unit as an employee, indirectly by a reporting unit through a contractual arrangement with other parties, or by engagement by a reporting unit as an independent contractor.

Exemptions

The above provisions would not apply to a retiree who is employed at a reporting unit if both of the following apply:

- The retiree retired after a ***bona fide termination of employment***.
- The retiree has been retired for at least 12 consecutive months before becoming employed at a reporting unit. (This requirement would not apply to retirees who are employed at a reporting unit on the effective date of the bill.)

> ***Bona fide termination of employment*** would mean that a retiree has completely severed the employer-employee relationship with the retiree's reporting unit employer. This would include, for example, a retiree not working for the reporting unit employer during the month of the retiree's pension's effective date and that, before the severing of the employer-employee relationship, the retiree does not intend or expect to have an offer or contingency to become employed at any reporting unit.

For purposes of the above, the retirement system would determine, in accordance with relevant federal law, whether a retiree retired after a bona fide termination of employment. If not, the system could adjust the retiree's pension effective date following a bona fide termination.

In addition, the provisions described above would not apply to a retiree who is employed by a university that is considered a reporting unit for limited purposes described in the act. (This is also an exemption under current law.)

A retiree would not be eligible to use any service or compensation attributable to the employment described above for a recomputation of the retiree's pension.

Information reporting

A reporting unit would have to report the employment of a retiree to the retirement system in a manner determined by the retirement system. The report would have to include the retiree's name, the capacity in which the retiree is employed, and the compensation paid to the retiree. If the retiree is employed by an employer that is not a reporting unit, that employer would have to provide to the reporting unit the information needed to comply with these provisions.

MCL 38.1361

House Bill 5536 would require the Office of Retirement Services to prepare three separate reports regarding the number of retirees who are employed at reporting units during the following periods:

- From the effective date of the bill to one year after that date.
- Between one year and three years after the effective date of the bill.
- Between three years and five years after the effective date of the bill.

Each report would have to be delivered within one month after the applicable reporting period to the Speaker of the House of Representatives, the Senate Majority Leader, the House and Senate appropriations committees, and the House and Senate Fiscal Agencies.

House Bill 5536 could not take effect unless House Bill 4375 were also enacted.

Proposed MCL 38.1361a

FISCAL IMPACT:

House Bill 4375, generally speaking, would create an incentive to retire earlier than an employee might have otherwise, knowing that they may return to work 12 months after retirement and earn both current compensation and a pension. When retirees retire earlier than anticipated under the retirement system's actuarial assumptions, it increases the unfunded liabilities in a pension system. While the provision requiring retirees to be retired for 12 months prior to being reemployed by a reporting unit without penalty would have a mitigating effect on early retirements, there would still be a number of individuals who retire earlier than they otherwise would have under current law.

Increased unfunded liabilities would be borne by the School Aid Fund, but an estimate of the costs is not available at this time. The increased unfunded liabilities would be directly related to the number of employees choosing to retire earlier than the system otherwise assumed. Reporting units would realize reduced health care costs by hiring a retiree because the retiree would have health care costs covered by the retirement system and not need to have them covered by the reporting unit.

House Bill 5536 would have no fiscal impact on the state or local units of government.

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