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BILL ANALYSIS

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House Bill 4375 (as enacted) **PUBLIC ACT 184 of 2022**
House Bill 5536 (as enacted) **PUBLIC ACT 185 of 2022**
Sponsor: Representative Steven Johnson (H.B. 4375)
Sponsor: Representative Lori Stone (H.B. 5536)
House Committee: Education
Senate Committee: Education and Career Readiness

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CONTENT

House Bill 4375 amended Section 61 of the Michigan Public School Employees Retirement Act (MCL 38.1361) to replace numerous existing criteria, restrictions, limitations, exemptions, and procedures for school retirees to return to work in a school setting and simultaneously draw a pension, with a requirement that the retiree not return to work before nine months had elapsed since retirement. The bill also removed a requirement that school employers pay into the retirement system a portion of rehired retirees' wages to support retiree health care benefits and pensions and would require school employers to report the rehiring of retirees to the Office of Retirement Services (ORS). In addition, the bill 'grandfathers-in' any existing retiree who is working at a reporting unit, which removes any earnings limitations or sunsets limiting how long that retiree may work during retirement.

Generally, retirees in the Michigan Public School Employees' Retirement System (MPSERS) may not return to work in a public school setting and also draw a pension unless the earnings do not exceed one-third of what the person was earning before retirement, or unless one of a number of exemptions are met. The Act allowed for retirees to return to work and draw a pension if various criteria were met and they were employed as substitute teachers, taught in critical shortage areas, were employed as instructional coaches, or met one of a number of other specific situations outlined in the statute.

The bill allows a retiree to return to work if he or she does so before nine months have elapsed after retirement, but the retiree must forfeit retiree health care benefits and pension for each month worked. Retirees in this situation may purchase retiree health care benefits from the System but will have to pay for it themselves.

House Bill 5536 added Section 61a to the Act to require the ORS to prepare one report showing the number of active retirees employed during the first year after enactment of the bill, and a second report showing the number of active retirees employed during the subsequent four years. The reports must be provided to the Senate Majority Leader, the Speaker of the House, the Senate and House Appropriations Committees, and to the Senate and House Fiscal Agencies.

MCL 38.1361

FISCAL IMPACT

The fiscal impact to a retirement system of allowing retirees to return to work and simultaneously draw a pension arises because, when this is allowed, people choose to retire earlier than they otherwise would if 'double dipping' were not allowed. Existing law has attempted to mitigate any negative fiscal impact on the retirement system by setting limitations and criteria as to the types of retirees may return to work, how much they may earn, how long they may work after retirement, the length of time after retirement before being allowed to return to work, and other restrictions. However, House Bill 4375 eliminated all but one requirement: that any retiree wait at least nine months before returning to the school workforce.

Therefore, while the nine-month wait period likely will forestall some workers from retiring early, others, knowing that they may return to work and both draw a pension and an active salary nine months after retirement, likely will retire earlier than they have otherwise planned. By doing so, the actuarial assumptions used, and contributions remitted, during each of those employees' years of work will be insufficient to fund their pensions, which will be drawn earlier than planned (and paid) for. This, then, will increase costs to the System as a whole, funded by the State and the School Aid Fund (SAF). The size of this increased State/SAF cost is indeterminate and will depend on how many people choose to retire earlier than otherwise planned, and how much this will increase unfunded liabilities associated with those retirees' pensions (being drawn earlier than planned for and funded).

In addition, House Bill 4375 removed provisions that required school employers to remit a portion of rehired retiree wages to support unfunded accrued liabilities related to pension and retiree health care. In so doing, this, too, will increase costs to the State and the SAF. On the reverse side, this will reduce those costs currently borne by school employers. According to the ORS, roughly $13.0 million was remitted by school employers in school year 2020-21 for this purpose. Even if no additional retirees retire earlier than otherwise planned, this aspect of the legislation will result in a net State cost increase (of approximately $13.0 million if numbers of rehired retirees remain stable) and an equal local cost decrease (since the cost will be shifted to the State/SAF).

To the extent school employers rehire retirees instead of hiring nonretirees, those employers likely will see reduced costs because they will not be paying health care insurance. Instead, health care coverage will be provided to the retirees who are rehired, using benefits provided under MPSERS. These savings will be in addition to the cost shift of the unfunded liabilities payments from the schools to the State.

The reports required under House Bill 5536 will increase costs to ORS but, the increase should be minimal.

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