

Legislative Analysis



EARNINGS CAP FOR RETIRED SCHOOL PERSONNEL TO STILL RECEIVE RETIREMENT ALLOWANCE

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House Bill 4752 (S-5) as passed by the Senate

Sponsor: Rep. Matt Koleszar

House Committee: Education

Senate Committee: Education

Complete to 9-28-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 147 of 2023)

SUMMARY:

House Bill 4752 would amend the Public School Employees Retirement Act to allow a retiree to be *employed at a reporting unit* and continue to receive their retirement allowance (pension) and subsidy for retirement health care benefits as long as the retiree retired after a *bona fide termination of employment* and either waited at least six consecutive months before taking another position or, if taking a position with a reporting unit sooner than six months, earns \$15,100 or less in a calendar year in that position.

Employed at a reporting unit means employed directly by a reporting unit¹ as an employee, indirectly by a reporting unit through a contractual arrangement with other parties, or by engagement of a retiree by a reporting unit as an independent contractor.

Bona fide termination of employment means that a retiree has completely severed the employer-employee relationship with their reporting unit employer, as determined by the retirement system. Completely severing that relationship includes a retiree's not working for their reporting unit employer during the month of their retirement allowance effective date and, before severing the employer-employee relationship, the retiree does not intend, expect, or have an offer or contingency to become employed at any reporting unit.

Presently an individual who is retired for at least nine consecutive months following a bona fide termination of employment is eligible to return to work at a reporting unit and still receive their retirement benefits.²

The bill would allow an individual, after their bona fide termination of employment, to work at a reporting unit and still receive their retirement benefits if they have been retired at least six consecutive months or, if returning to a position sooner than six months, they earn less than \$15,100 in a calendar year. This exemption would apply to individuals who were employed in both superintendent and non-superintendent roles, although for individuals who were employed as a superintendent at the time of their retirement, they would have to be employed in a non-superintendent position and earn no more than \$15,100 in that role to be eligible for the exemption. These exemptions for retired superintendents and non-superintendents would remain in place for five years following the effective date of the bill.

¹ A public school district, intermediate school district (ISD), public school academy (PSA), tax-supported community or junior college, or agency with employees who are members of the retirement system.

² This provision was added by 2022 PA 184, which also 'grandfathered in' retirees already working at a reporting unit on the day it took effect (July 25, 2022) by allowing them to do so without forfeiting their retirement benefits.

(Under both current law and the bill, an individual who does not qualify for an exemption may still work for a reporting unit, but they would forfeit their retirement allowance and health care subsidy in each month they are employed. Once they terminate employment with a reporting unit, they are again eligible to receive those benefits, although the benefit amounts are not recalculated based upon the additional time spent working at a reporting unit.)

MCL 38.1361

BRIEF DISCUSSION:

As part of ongoing efforts to address shortages of qualified individuals to work in various roles in Michigan's public schools, legislation has been passed in recent years to relax a prohibition aimed at eliminating "double-dipping" by public employees who retired from full-time employment when they were eligible to draw their full pension and then returned to work full-time on a contractual basis in a similar role. This allowed the individual to draw two incomes at once from a public entity.

The prohibition originally did not allow an individual to come back to work in a public school without forfeiting retirement benefits for the months they were employed by the school or school district. Current law allows for a "cooling off" period that is intended to prove that the individual was truly retiring, and not simply retiring from one full-time role to take on another on a contractual basis. The bill would allow an individual to be employed during that period as long as their earnings do not exceed the specified amount.

School administrators testified in House committee that there are a variety of roles, ranging from long-term substitute teachers to information technology professionals to athletic coaches, that can be filled by individuals working part-time, and that are often done more efficiently by individuals who have prior experience working in that role. However, retired individuals do not want to take on that part-time work because of the current restrictions on receiving pension income while working.

SENATE ACTION:

After being passed by the House of Representatives on June 28, 2023, as an H-3 substitute, the bill was amended by the Senate Education Committee and reported as substitute S-5, which was passed by the Senate on September 27, 2023. The primary changes made by the Senate substitute include increasing the amount of income a retirant could earn, from \$10,100 to \$15,100, and decreasing the amount of time a retirant would have to wait before being eligible to again take a position at a reporting unit, from nine months to six months. Additionally, a distinction was made between individuals who retired as a school superintendent and those who had a non-superintendent role. The Senate substitute also placed a five-year sunset (expiration date) on those provisions.

FISCAL IMPACT:

Generally speaking, the bill would create an incentive for some employees to retire earlier than they might have otherwise knowing that they may return to work immediately upon a bona fide termination of employment and earn up to \$15,100 in 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 bill's provision capping compensation at \$15,100 per calendar year for the retiree to be eligible for immediate employment (as opposed to having the current nine-month wait) would have a mitigating effect on early retirements, there would still be a number of individuals who retire earlier under the bill than they otherwise would have under current law. Shortening the current nine-month wait to six months would also result in some number of individuals retiring earlier than they otherwise would have.

Increased unfunded liabilities would be borne by the School Aid Fund. 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. For context, according to the Office of Retirement Services, if the number of individuals who retired at their earliest eligibility date increased from 10% to 12%, it would result in an increase of cost to the system of 0.5% of payroll. Using the FY 2021-22 valuation payroll of \$8.5 billion this would increase the cost to the system by approximately \$42.5 million.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-22-23):

- Michigan High School Athletic Association
- Michigan Association of Public School Academies

The following entities indicated support for the bill (6-27-23):

- Department of Education
- Education Advocates of West Michigan
- Barry, Branch, Calhoun, Jackson, Lenawee, and Monroe ISDs
- Michigan Alliance for Student Opportunity
- Michigan High School Athletic Association
- American Federation of Teachers of Michigan

Representatives of the following entities testified in opposition to the bill (6-22-23):

- K-12 Alliance of Michigan
- Macomb Superintendent Association
- Macomb Intermediate School District

The following entities indicated opposition to the bill:

- Wayne RESA (6-22-23)
- Pupil Transportation Operation Management Institute (6-27-23)
- Oakland Schools (6-27-23)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.