# HOUSE BILL REPORT

# SB 5352

As Passed House - Amended
April 17, 1993

**Title:** An act relating to the effect of payments based on retirement agreements on calculation of pension benefits.

**Brief Description:** Specifying how payments based on retirement agreements shall affect calculation of pension benefits.

**Sponsors:** Senators Newhouse, Spanel, Moore, Bauer and Winsley; by request of Joint Committee on Pension Policy.

**Brief History:**
Reported by House Committee on:
Appropriations, April 2, 1993, DPA;
Passed House - Amended, April 17, 1993, 96-0.

## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 22 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Leonard; Linville; Sehlin; Sheahan; Sommers; Stevens; Talcott; Wang; Wineberry; and Wolfe.

**Staff:** Barbara McLain (786-7153).

**Background:** "Earnable compensation" for purposes of determining a state retirement system member's pension is generally defined as salaries and wages payable for services rendered to the employer.

During field audits in 1992, the Department of Retirement Systems (DRS) discovered that certain community colleges were providing retirement incentives to employees. The employee would agree to retire within a specified time period, and in exchange would receive increased class loads or supplementary teaching days, sometimes accompanied by compensation greater than what would ordinarily have been paid for the extra work. These financial incentives cause a recipient employee's average final compensation to increase, thereby increasing the employee's pension.

The department’s interpretation of current law is that, although a normal rate of compensation for the additional work performed under the agreements can be included in the calculation of a member’s pension, the increased compensation rate resulting solely from the agreement falls outside the definition of earnable compensation.

For members who have already retired and whose pensions were calculated based on payments received under the agreements, DRS recalculates the member’s pension and future payments are made based on the revised calculation. In addition, DRS must collect up to three years of previous overpayments. The member can repay the overpayments in a lump sum, or DRS will adjust future payments for the previous overpayment.

**Summary of Bill:** Any payments made to an employee covered by one of the state’s retirement systems that are based either on an agreement by the member to retire, or on notification to the employer of intent to retire, will affect the retirement benefit in one of the following three ways:

(1) If the agreement does not require the employee to perform additional service, the payment may not be used in any way to calculate the employee’s pension benefit.

(2) If the agreement requires additional service paid at an equal or lower rate than that paid to other employees, the additional payment may be included in the calculation of the employee’s pension benefit, but it will be considered "excess compensation." The employer will be billed for the additional cost to the pension system.

(3) If the agreement requires additional service paid at a higher rate than would be paid to other employees, that portion of the payment which equals the payment for the same or similar service can be included in the calculation of the employee’s pension benefit, but it will be considered "excess compensation" and the cost will be billable to the employer. The part of the payment that is above the rate paid to other employees cannot be included in the pension benefit calculation.

Members of the Teachers’ Retirement System (TRS) who retired from community colleges before January 1, 1993, and who had retirement incentives included in the calculation of their pensions, will have their pensions adjusted prospectively to reflect the correct retirement allowance, but will not be required to repay any prior overpayments.

Any of these members who have had their pensions reduced since January 1, 1990, to reflect previous overpayments, will receive a new pension calculation that does not reflect repayment of previous overpayments, and will be reimbursed by the retirement system for the reduction that has already occurred. Anyone who repaid previous overpayments in a lump sum will be reimbursed by the retirement system for the repayment.

These members also have the opportunity to change the retirement payment option selected at retirement, if they request the change in writing to the department by October 31, 1993.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** None.

**Witnesses:** None.