SENATE BILL REPORT
SB 5937

As Reported By Senate Committee On:
Ways & Means, March 8, 2001

Title: An act relating to the limits on postretirement employment for teachers' retirement system plan 1 and public employees' retirement system plan 1 retirees.

Brief Description: Removing the limits on postretirement employment for teachers' retirement system plan 1 and public employees' retirement system plan 1 retirees.

Sponsors: Senators Shin, Rasmussen, Jacobsen, Winsley, Kohl-Welles and McAuliffe; by request of Governor Locke; Superintendent of Public Instruction.

Brief History:
Committee Activity: Ways & Means: 2/21/01, 3/8/01 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5937 be substituted therefor, and the substitute bill do pass.
Signed by Senators Brown, Chair; Constantine, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Parlette, Rasmussen, Regala, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Staff: Pete Cutler (786-7454)

Background: All state administered retirement plans impose restrictions on the ability of retirees to collect their retirement allowances if they return to employment in jobs that would be covered by the same retirement plan. The policy assumption underlying these restrictions is that the retirement income is provided for the purpose of permitting the employee to have financial security after he or she leaves the workforce. The federal Internal Revenue Service (IRS) has established guidelines for pension plans to follow in order to qualify for favorable tax treatment. The IRS guidelines do not limit a retiree's ability to return to work after the retiree has separated from service with an employer, and generally require that pension payments begin no later than when the member turns age 70 and one-half.

Deferred Compensation Program payments are treated as "deferred income" by the IRS; they are not considered to be retirement or pension income.

Prior to April 2000, Social Security retirees under age 70 were subject to a reduction in their benefits if they had earnings over a certain level. Now there is no offset for retirees who reach the Social Security normal retirement age, which is currently age 65, but will increase eventually to age 67. Persons who are younger than the normal retirement age receive a $1 reduction in their Social Security retirement benefits for every $2 earned above the annual earnings limit, which is about $10,700 for 2001.

TRS 1 retirees who have the one calendar month break from employment may work up to 525 hours (75 days) in a school year without a reduction of their allowances. Those who work as substitute teachers in districts that have a shortage of substitutes may work up to 840 hours (120 days) without a reduction. PERS 1 retirees who have the required break in service may work up to five months in a calendar year without a break in service. The statutes dealing with post-retirement employment were significantly amended in 1990 and 1997 as a result of changes proposed by the Joint Committee on Pension Policy (JCPP).

In 1999 the Department of Personnel (DOP) convened a task force composed of state agency representatives to examine trends and issues related to the aging of the state's workforce. The task force report in June 2000 indicated that DOP is developing a pool of retirees interested in state positions, and recommended that the five-month limit on post-retirement employment for PERS members be converted to a total hours limit (between 800 - 900 hours) or to a "certain percentage of retirement income" limit.

In the summer and fall of 2000 the Joint Committee on Pension Policy reviewed the issue of the limits on PERS 1 and TRS 1 post-retirement employment. The JCPP has proposed legislation for the 2001 session that would permit all TRS 1 retirees to work up to 840 hours in a school year without a reduction in benefits, and retirees of most other state administered retirement plans, including PERS 1, to work up to 867 hours in a calendar year without a reduction in benefits.

Summary of Substitute Bill: TRS 1 retirees may work 1500 hours in a school year , and PERS 1 retirees may work 1500 hours in a calendar year, without having their pensions suspended. PERS 2 retirees may work up to 867 hours in a calendar year without a suspension of benefits. The Department of Retirement Systems, Department of Personnel, Superintendent of Public Instruction, and Health Care Authority are directed to jointly develop publications for use during the 2001-03 biennium to explain options for, and implications of, post-retirement employment for PERS 1 and TRS 1 active members and retirees. The ability to work 1500 hours without a reduction in pension is limited to the period ending June 30, 2004, for TRS 1, and the period ending December 31, 2004, for PERS 1. TRS 1 retirees who are re-employed as certificated employees under the bill are not included in the coverage of continuing contract statutes, nor various other statutes in the education code.

Members of PERS 1 who are at least age 70 and six months old may apply for retirement without separating from employment. Persons who elect to receive a benefit under this option will not make contributions nor earn service credit while they are receiving their retirement allowances.
The Department of Retirement Systems must provide the State Actuary with information regarding the level of post-retirement employment reported for PERS 1 and TRS 1 retirees. The office of the State Actuary must review the actuarial impact of the temporary expansion in post-retirement employment and report to the Joint Committee on Pension Policy no later than July 1, 2003. The joint committee must solicit information from the Superintendent of Public Instruction, the Department of Personnel, the Office of Financial Management, the Department of Retirement Systems, and the Health Care Authority regarding the program impacts of the bill, and must report to the legislative fiscal committees no later than October 1, 2003 on any proposed changes to the bill. The joint committee must also propose legislation for the 2004 session that provides a means to charge those employers who benefit

from the act for any costs incurred by the retirement systems as a result of the act. The Legislature reserves the right to amend or repeal the new PERS and TRS 1 post-retirement employment provisions.

Substitute Bill Compared to Original Bill: The substitute bill does not change the current requirement that members must separate from employment for one calendar month in order to be able to collect full retirement benefits. The substitute permits PERS and TRS 1 retirees to work up to 1500 hours in a year without a reduction in benefits as compared to the original bill which permitted retirees to work an unlimited amount. The substitute requires the creation of post-retirement employment publications for PERS and TRS 1; provides that the expanded post-retirement limits are effective until June 30, 2004, for TRS 1, and until December 31, 2004, for PERS 1; PERS 1 members who are age 70 years and six months may collect their retirement allowances without separating from employment; OSA must conduct a review of the fiscal impact of the changes; and the JCPP will report on the program impacts of the bill, and propose a bill for the 2004 session that will have the employers who benefit from the bill pay any costs incurred by the retirement plans due to the bill.

Appropriation: None.

Fiscal Note: Requested on March 9, 2001.

Effective Date: July 1, 2001.

Testimony For: This bill will help the state and school districts retain the services of highly skilled and experienced employees in an increasingly competitive job market. Persons have earned their pension benefits with their prior service.

Testimony Against: **Concerns:** The bill should be clearer about the impact of post-retirement employment on collective bargaining agreements, continuing contract provisions, eligibility for benefits, and other matters. It would also be better if all employees had a right to continue their employment and collect their pension, not just those that an employer chooses to rehire.

Testified: PRO: David Ellick (AWSP); Ken Kanikeberg (OSPI); Doug Tanabe (DOP); Wolfgang Opitz (OFM); John Charles (DRS); Doug Nelson (PSE); John Kvamme (WASA). CONCERNS: Lynn McKinnon (WPEA); Bob Maier (WEA).