

HOUSE BILL REPORT

SHB 1829

As Amended by the Senate

Title: An act relating to postretirement employment in the public employees' retirement system and the teachers' retirement system.

Brief Description: Regulating postretirement employment in the public employees' retirement system and the teachers' retirement system.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Bailey, Sehlin, Talcott, Kristiansen, Clements, Tom, Pearson, McMahan, Benson, Woods and Pflug).

Brief History:

Committee Activity:

Appropriations: 2/25/03, 3/4/03 [DPS].

Floor Activity:

Passed House: 3/13/03, 96-0.

Senate Amended.

Passed Senate: 4/9/03, 33-16.

Brief Summary of Substitute Bill

- Defines separation from service in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) as excluding circumstances where an employee and their employer have an oral or written agreement to return to work following termination. Claiming retirement without separation may be a false claim for retirement benefits.
- Adds conditions to PERS Plan 1 and TRS Plan 1 retiree eligibility for 1,500 hours of post-retirement employment without benefit suspension. Longer breaks are required before re-employment. Employers must document the need to hire a retiree, hire through established processes, and the employer's highest authority must approve. A cumulative limit of 1,900 hours of eligible post-retirement employment is also added.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Sommers, Chair; Fromhold, Vice Chair;

Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Pflug, Ruderman, Schual-Berke, Sump and Talcott.

Staff: David Pringle (786-7310).

Background:

Retired members of Plan 1 of the Public Employees' Retirement System (PERS) or the Teachers' Retirement System (TRS) who re-enter employment with an eligible employer within one month of retiring are subject to a benefit reduction. The reduction is equal to 5.5 percent of the monthly benefit amount for every eight hours worked that month, and is applied until such time as the retiree remains absent from eligible employment for at least one full calendar month.

A member must separate from service in order to qualify for a retirement allowance. Separation from service is defined in PERS and TRS to mean that the member has no written agreement to resume work with their employer after entering retirement. After entering retirement status, a member may begin their retirement allowance on the first day of the month following the month that he or she applies for retirement benefits. The date that retirement benefits begins is referred to as a member's "accrual date."

Both PERS and TRS provide sanctions for the filing of false statements to the Department of Retirement Systems (DRS). A person who files a false record or false statement to the DRS in any attempt to defraud the retirement systems is guilty of a gross misdemeanor in PERS and a felony in TRS.

Retirees from PERS 1 or TRS 1 who have been separated from service for one calendar month after their accrual date may work up to 1,500 hours per year without a reduction in pension benefits. Once the 1,500 hour limit is exceeded, pension benefits are suspended until the beginning of the following year.

The limits on post-retirement employment were expanded to the 1,500 hour limit for PERS 1 and TRS 1 by the 2001 Legislature through the passage of ESSB 5937. ESSB 5937 expressly disclaimed any contractual right to 1,500 hours of post-retirement without suspension of pension benefits, and it also contained expiration dates for the laws allowing the 1,500 hours in June of 2004 for TRS and December 2004 for PERS. The expiration dates were vetoed from the bill by the Governor.

Summary of Substitute Bill:

The definition of separation from service in PERS and TRS is changed to exclude

circumstances where the employer and employee have an oral or written agreement to resume work for that employer following termination. The amended definitions reference the false statement provisions in PERS and TRS, and they may be violated if separation from service is claimed by an employee or an employer when an agreement exists.

The eligibility for 1,500 hours of post-retirement employment in PERS Plan 1 and TRS Plan 1 is conditioned on the employer and the employee satisfying certain conditions, and if not met, the retiree may only work for 867 hours in a year prior to suspension of retirement benefits.

The required length of separation from service is lengthened from one month following accrual to one and one-half months in TRS, and three months in PERS.

An employer must document a justifiable need to hire a retiree into the position being filled. The employer must also hire the retiree through the established process for the position, retain records of the procedures followed and decisions made in hiring, and provide those records in the event of an audit.

The decision to hire a retiree must also be approved by the school board for a school district, the chief executive officer of a state agency, the Chief Clerk for the House of Representatives, the Secretary of the Senate for the Senate, both the Chief Clerk and the Secretary of the Senate for legislative agencies, or made according to rules adopted by a local government.

The retiree is also restricted to a cumulative total of 1,900 hours of post-retirement employment in excess of 867 hours per year while in receipt of a benefit. The 1,900 hour total is applied retroactively from the date of retirement to those who retired prior to the effective date of the act.

EFFECT OF SENATE AMENDMENT(S):

The Senate adopted two amendments to different subsections. The second amendment contains the same substantive change to the bill as the first, but also expands the scope of the amendment.

The first amendment changes the cumulative lifetime total of hours that a teacher may work in excess of 867 hours per school year while in receipt of their pensions from 1,900 hours to 3,165 hours. The second amendment changes the cumulative total for both teachers and principals from 1,900 hours to 3,165 hours.

For teachers and principals working on a full-time basis, changing the limit from 1,900 hours to 3,165 hours extends the cumulative total from approximately three years to approximately five years of post-retirement employment without suspension of pension

benefits.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) There should be some strengthening of the separation from service language because this issue has caused an erosion of public confidence.

(Concerns) Cutting the hours back may be premature - if there is an economic recovery in the state, the retire-rehire provisions will help address the drain on state employment that will occur. The change in the retire-rehire laws in 2001 removed substantial administrative complexity from the system, and few retirees have returned to state employment under the liberalized rules. Perhaps the longer breaks in service required in the bill should be reconsidered.

Testimony Against: None.

Testified: (In support) Representative Bailey, prime sponsor.

(Concerns) Doug Tanabe, Department of Personnel; Megan Atkinson, Office of the Superintendent of Public Instruction; L.M. Freeman; Bob Maier, Washington Education Association; Doug Nelson, Public School Employees; and John Kvamme, Washington Association of School Administrators and Association of Washington Principals.

(Neutral) Art Wang, Office of Administrative Hearings; and Steve Nelson, Department of Retirement Systems.