SENATE BILL REPORT
ESHB 1981

As of May 3, 2011

Title: An act relating to public employee postretirement employment and higher education employees' annuities and retirement income plans.

Brief Description: Addressing public employee postretirement employment and higher education employees' annuities and retirement income plans.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Bailey and Carlyle).

Brief History: Passed House: 5/02/11, 91-4.
Committee Activity: Ways & Means: 5/03/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Erik Sund (786-7454)

Background: The various plans of the Washington State Retirement System each contain rules prescribing the circumstances under which a retired employee may return to employment within a retirement system-covered position and continue to receive retirement benefits. Between 2001 and 2007, the rules for the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) Plan 1 underwent a series of changes, including the addition of rules that permitted PERS and TRS Plan 1 members to work for up to 1500 hours per year for three years (or certain part-time equivalents) without suspension of retirement benefits. For the Plans 2 and 3 of PERS and TRS, as well as for the School Employees' Retirement System (SERS) and the Public Safety Employees' Retirement System (PSERS), upon returning to employment into a retirement system-covered position, a retiree generally is able to receive retirement benefits for the first 867 hours of employment each year.

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Length of Separation From Service. Members of the PERS, TRS, SERS, or PSERS 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 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.

Retirees from the PERS, TRS, SERS, or PSERS who have been separated from service for one calendar month after their accrual date may work up to 867 hours per calendar year without a reduction in pension benefits. Retirees from TRS Plan 1 who have been separated for one and one-half month, or retirees from PERS Plan 1 who have been separated from service for three calendar months, and whose hiring meets specific approval and record-keeping requirements, may work up to 1500 hours per calendar year without a reduction in pension benefits. Once the 1500-hour limit is exceeded, pension benefits are suspended until the beginning of the next calendar year.

The number of years a PERS Plan 1 or TRS Plan 1 retiree may work for 1500 hours without a reduction in benefits is limited. Each retiree from these two plans may only work for a lifetime cumulative limit of 1900 hours beyond 867 hours per calendar year.

False Claims. Both PERS and TRS have provided sanctions for filing false statements to the Department of Retirement Systems (DRS) since 1947. A person (employer or employee) who files a false record or false statement to the DRS in any attempt to defraud the retirement systems for a claim related to separation from service or qualification for retirement is guilty of a gross misdemeanor.

Higher Education Retirement Plan. State institutions of higher education are authorized to offer the Higher Education Retirement Plan (HERP) to faculty and other employees whose positions are designated as eligible by their respective boards. The HERPs are administered by each institution, unlike the other state retirement systems that are administered by the DRS. The HERPs provide defined contributions, typically 5 percent of pay from each of the employer and employee until age 35, 7.5 percent of pay from each until age 50, and the employer matching up to 10 percent of pay from age 50 until retirement.

The HERP also has a guaranteed defined benefit, called the HERP Supplemental Benefit, which pays a monthly supplemental allowance to insure that the HERP member receives a total benefit worth about 50 percent of the average of a member's highest two consecutive years of salary. The value of the member's defined contributions, calculated as if they had been invested in a model portfolio, are subtracted from any HERP Supplemental Benefit obligation.

The HERP Supplemental Benefit costs are paid out of institution operating budgets, and are largely not pre-funded. Current and projected HERP Supplemental Benefit obligations have grown in recent years.

Positions covered by the HERP are not considered to be Washington State Retirement System-covered for purposes of the post-retirement employment rules in the PERS, SERS, or PSERS.

Summary of Bill: State institutions of higher education may offer the HERP, instead of the PERS Plans 2 or 3, only to faculty and senior academic administrator employees.

Senior academic administrator employees are defined as institution presidents, vice presidents, deans, directors, chairs, and executive heads of major administrative or academic divisions who hold concurrent faculty appointment with rank.

The HERP Supplemental Benefit is eliminated for employees that enter the plan after July 1, 2011, and employees offered participation in HERP on or after July 1, 2011, have the option of joining the TRS Plan 3 or PERS Plan 3.

State funding for the HERPs is limited to 6 percent of salary.

The PERS and TRS Plan 1 provisions permitting retirees to receive benefits while employed in retirement system-covered positions for up to 1500 hours per year are eliminated. (Retirees in PERS and TERS Plans 1 may continue to work up to 867 hours per year without a reduction in pension benefits.) Positions covered by the HERP are added to those included in the post-retirement employment pension restrictions for the PERS, TRS, School Employees' Retirement System (SERS), and PSERS.

A reference to the defunct Public Pension Commission is replaced with the Select Committee on Pension Policy among the legislative committees responsible for periodically reviewing the HERPs and adjusting contribution rates.

Higher education institutions responsible for payment of HERP Supplemental Benefits are required to contract with and provide data to the Office of the State Actuary for actuarial valuations every two years beginning June 30, 2013, and experience studies of the HERPs at least once in every six-year period, with the first being due by June 30, 2013. A 0.5 percent of pay employer contribution rate is initiated for HERP-covered employees beginning January 1, 2012, to a new supplemental benefit fund. This fund is invested by the State Investment Board. Upon completion of the first actuarial valuation by the State Actuary (no later than June 30, 2013), the Pension Funding Council (PFC) may make changes to the 0.5 percent contribution rate, including the adoption of separate rates appropriate to the liabilities of each institution. The PFC is authorized to recommend legislation, upon accumulation of sufficient funding in the Supplemental Benefit Fund, to transfer responsibility for benefit payments to the new fund and adjust contribution rates to reflect the transfer of responsibility.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on May 3, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.