

Visiting International Faculty

Description Of Issue

Should visiting teachers from other countries be exempt from retirement system membership?

The Visiting International Faculty Program (VIF) is a sponsor under the U.S. Department of State's Exchange Visitor Program. VIF would like to sponsor visiting teachers in Washington, and is requesting an exemption from membership in the Teachers' Retirement System (TRS) Plans 2/3. These teachers would not stay in the state long enough to earn a pension. Exempting them would mean that employer and member contributions would not be collected for these teachers, and refunds of member contributions would not be required when they leave.

Based on experience in other states, the program could grow to about 200-300 teachers statewide.

Policy Highlights

- ❖ A similar exemption exists in TRS Plan 1.
- ❖ DRS supports the idea of the exemption to alleviate administrative concerns.
- ❖ The two peer states that participate in the Exchange Visitor Program provide an exemption.
- ❖ An exemption is consistent with federal policies.
- ❖ An exemption adds membership complexity.
- ❖ An exemption spreads Plan 1 UAAL cost to non-participating employers.
- ❖ Impacts would reach beyond the pension system.

Committee Activity

Staff briefed the Committee at its November meeting and the SCPP took no further action.

Recommendation To 2009 Legislature

None.

Staff Contact

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In Brief

ISSUE

Should the SCPP recommend legislation to exempt visiting teachers from other countries from membership in the Teachers Retirement System Plans 2 and 3 (TRS 2/3)?

MEMBER IMPACT

The proposal would impact TRS 2/3 beginning in the 2010-2011 school year. If legislation were passed, the proponents intend to place approximately 20 visiting international teachers in Washington in the first year, depending on the economy. Based on experience in other states, the program could grow to about 200-300 teachers statewide.

According to the 2007 Actuarial Valuation Report there are approximately 58,600 active members in TRS 2/3.

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Visiting International Faculty

Current Situation

The Director of Government Relations for the Visiting International Faculty Program (VIF) reports that several school districts have asked VIF to bring international teachers to Washington. Also, according to VIF, teachers around the world are expressing interest in working in Washington. Typically VIF seeks to address statutory and regulatory concerns prior to bringing teachers to a specific state. VIF requests a statutory change to the Teachers' Retirement System Plans 2 and 3 (TRS 2/3). The proposal would exempt visiting international teachers from retirement system membership.

Under current TRS 2/3 provisions, visiting teachers who come from other countries to work full time on a temporary basis are required to become contributing members of TRS Plan 2 or 3. When they leave employment they are eligible for a refund of their member contributions.

TRS History

TRS Plan 1 has the following membership exemption: "All teachers employed full-time in the public schools shall be members of the system except alien teachers who have been granted a temporary permit to teach as exchange teachers." (Emphasis added.) TRS 1 closed in 1977. The membership exemption was not continued in TRS 2/3. The reason for discontinuing the exemption is unknown, but we do know that many ancillary benefits were discontinued or reduced when Washington closed Plan 1 and opened the Plans 2/3.

What Is The VIF Program?

VIF was founded in 1989 and provides U.S. schools with full-time visiting teachers from fifty nations. Teachers serve for one to three years. The program provides screening, preparation, and support services for visiting teachers.

The VIF Program is a private organization and a designated sponsor in the Exchange Visitor Program under the U.S.

Department of State. The Exchange Visitor Program is carried out under a federal act entitled the Mutual Educational and Cultural Exchange Act of 1961. Its purpose is to foster mutual understanding between the people of the United States and the people of other countries through educational and cultural exchanges.

All exchange visitors are expected to return home upon completion of their program in order to share their U.S. experiences with people in their home country. As stated in federal regulations, these exchanges enable visitors to better understand American culture, society, and teaching practices at the primary and secondary levels. See 22 CFR 62.24(a). They also enhance American knowledge of foreign cultures, customs, and teaching approaches.

Federal regulations set minimum requirements for visitor eligibility. Sponsors such as the VIF Program must adequately screen teacher qualifications, reputation, and character prior to accepting them into the program. Visiting teachers must receive a special visa (known under the regulations as a "J-1" visa) and may participate in the program for a maximum of three years. They also must obtain a Social Security card and pay taxes on salary or wages earned in the U.S., although some are subject to bilateral tax treaties affecting federal taxation. FICA payments are triggered after 180 days, unless they already have a Social Security card from previous work or study in the U.S.

VIF is a sponsor under the U.S. Department of State's Exchange Visitor Program.

VIF is the largest U.S. sponsor for teachers in the State Department's Exchange Visitor Program. The State Department does not recommend or "rate" any of the designated sponsors, however; by virtue of its State Department status, the VIF Program has complied with all applicable regulations for obtaining designation and is in good standing.

There are approximately sixty other sponsors for teachers under the federal program; however, most of these place very few teachers compared to VIF. According the VIF's Director of Government Relations, the second largest sponsor in the U.S. is the Ministry of Education for the Spanish Embassy, which places no more than about 400 teachers per year nationwide. VIF partners with the Ministry in some states to recruit and support teachers from Spain.

Other States

Two peer states, California and Florida, participate in VIF's program. Their visiting teachers are exempt from retirement system membership.

In the fall of 2008 the VIF Program staff discussed its program with OSA staff. At that time it sponsored about 1,500 teachers in 1,000 schools within seven participating states. Once VIF moves into a state, its practice is to allow the program to grow. On average, programs in other participating states have grown to about 200-300 visiting teachers per year.

As of December, 2008 the VIF Program provided teachers in two of Washington's peer states: California and Florida. Both of these states exempt visiting teachers from retirement system membership. Florida requires a temporary visa and has a three-year limit on exempt employment. (These requirements are consistent with federal regulations.) California's membership exemption is much broader and simply excludes "exchange teachers or sojourn teachers from outside of this state" from retirement system membership.

The VIF Program started in North Carolina. In addition to California and Florida, VIF places teachers in Georgia, Maryland, South Carolina, and Virginia. At this time, all participating states have membership exemptions for participants except Maryland. (The VIF Program has not yet asked for an exemption there.)

Policy Analysis

The issue for policy makers is whether to exempt visiting teachers from other countries from membership in TRS 2/3. This section will summarize the impacts on TRS of providing the proposed exemption. It will also discuss the pros and cons of a membership exemption from a policy perspective. Finally, this section identifies questions that reach beyond the pension system, and which may be of interest to other legislative committees and/or groups.

How Would The Proposal Impact TRS?

Currently, visiting teachers from other countries who teach full-time in eligible positions must pay member contributions to the retirement system. Similarly, their employers must pay contributions on their behalf. When their visas expire

Visiting teachers stay for one to three years and do not earn a pension.

and they leave their teaching positions, they can apply for refunds of member contributions. The employer contributions remain with TRS.

Under the proposal, temporary visiting teachers would be exempt from retirement system membership. This means that the Department of Retirement Systems (DRS) would not collect member or employer contributions for these teachers. No service credit would accrue and DRS would have no obligation to provide refunds of member contributions after visiting teachers leave employment.

How many positions would be affected in TRS? Passing the exemption would trigger action by VIF to work with school districts to temporarily fill certain TRS positions with visiting teachers. The proponents have stated that they intend to place approximately twenty visiting teachers in the 2010-2011 school year, depending on the economy.

Within a four- to five-year period VIF would allow the program to grow. Looking at programs in other states, full program capacity would mean a presence of 200-300 temporary visiting teachers within the state. (Note: While there are other designated sponsors under the State Department's Exchange Visitor Program, those sponsors do not bring large numbers of teachers to the U.S. and are not expected to add significantly to the number of visiting teachers in Washington.)

The fiscal impacts of a membership exemption have not been identified for this initial briefing. If the SCPP decides to pursue the proposal, it can direct staff to prepare a bill draft and draft fiscal note.

What Are Some Reasons For A Membership Exemption?

Addresses Administrative Concerns

Visiting international teachers do not remain in the U.S. long enough to become vested in Plan 2 or in the defined benefit portion of Plan 3. Some policy makers may question whether visiting teachers should be processed as members when they are non-citizens and will not stay long enough to earn a pension.

DRS supports the idea of exempting visiting teachers from membership in TRS 2/3.

The Department of Retirement Systems (DRS) supports the idea of exempting visiting teachers from other countries from retirement system membership. Why? Because

visiting teachers would be eligible for refunds upon termination of employment.

DRS has expressed concerns about the administrative impacts of locating individuals who leave the country before requesting to withdraw their member contributions. Tracking people overseas can be difficult, time-consuming, and expensive.

Consistent with Federal Policies

A TRS exemption would be consistent with the federal preference that visiting temporary teachers should not garner assets in this country. The program is designed for visitors, and garnering U.S. assets gives visitors an incentive to remain in the country. This is inconsistent with the premise of the Exchange Visitor Program.

The proposal also supports the federal policies of the U.S. State Department's Exchange Visitor Program by making it easier to attract visiting international teachers. For the teachers themselves, many of whom are required to continue accruing pension benefits in their home country, this approach avoids double pension payments and the complexity of multiple benefits.

Consistent with TRS 1

The membership exemption already exists in TRS 1. An exemption in TRS 2/3 would provide consistency with that Plan.

Visiting Teacher Convenience

The exemption may also be easiest for visiting teachers, as they will not be required to go through an administrative process that is designed for members working toward a pension. The exemption also frees up dollars for teacher expenses while they are in the U.S.

What Are Some Reasons Against The Exemption?

Adds Membership Complexity

The TRS 2/3 membership provisions are inclusive and do not provide special exemptions to other groups of active members working in eligible positions. Adding this exemption adds complexity to the membership provisions.

Currently all teachers who work full time in an "eligible position" must join TRS (unless retired, receiving a disability benefit, or removed from membership for a terminal illness). An eligible position normally requires five or more months of 70 or more hours of compensated employment from September through August. This definition would include visiting teachers under the Exchange Visitor Program.

Exempting visiting teachers spreads UAAL cost to employers who aren't participating in the VIF Program.

Spreads UAAL Cost to Non-Participating Employers

If employer contributions are not collected for visiting teachers because they are exempted from membership, then all TRS employers would experience a small increase in cost for the TRS 1 unfunded actuarial accrued liability, or UAAL. The UAAL is past cost for TRS 1 that is still unpaid. Current funding policy requires that this cost be spread among all TRS employers and collected as a percent of active teacher salaries. If the number of covered teacher salaries decreases by 200-300, the Plan 1 UAAL cost that would have been paid by employers for those teachers must be spread to remaining employers.

Eliminates a Mandatory Savings Plan for Visiting Teachers

Finally, from the perspective of visiting teachers, the membership exemption eliminates a mandatory savings plan that could benefit them they after they leave employment in the U.S. For those who do not accrue pension benefits in their home country while participating in the Exchange Visitor Program, the loss of these savings is more significant.

Impacts Would Reach Beyond The Pension System

Some impacts of this issue reach beyond the pension system. For this reason, it may be desirable for other groups and legislative committees to weigh in on the decision.

The retirement system membership exemption is a factor in VIF's decision to come to a state. Once it initiates the program, a number of positions that are currently filled by U.S. teachers would be filled by teachers from other countries.

The membership exemption helps facilitate the VIF program. The exemption frees up dollars for recruiting, screening, and supporting international teachers - services that most school districts cannot undertake to

independently provide. (Examples include interest-free start-up loans to teachers, leased cars, health insurance coverage, visa services, orientation, and on-going problem solving.) VIF provides these services for a fee that is paid by school districts. The dollars that would have been paid for pension contributions are paid to the sponsor. Because the exemption helps facilitate sponsorship of visiting teachers, those who favor this type of cultural exchange program for Washington's public schools would presumably favor the exemption.

For those who do not wish to see an expanded program for visiting international teachers in Washington, a membership exemption may be objectionable. Some may prefer that as many Washington teacher positions as possible remain available to U.S. teachers. There may be concerns that a membership exemption would encourage the program to grow and therefore should not be pursued, especially in times of economic downturn.

Conclusion

There are pros and cons to exempting visiting teachers from TRS membership. Some reasons to support a membership exemption include: administrative concerns with refunds, consistency with federal policies, consistency with TRS Plan 1 and practices in participating peer states, and visiting teacher convenience. Some reasons against the exemption are: adding membership complexity, spreading Plan 1 UAAL costs to other TRS employers who are not participating in the program, and eliminating a mandatory savings plan for visiting teachers. Policy makers will weigh the significance of these pros and cons.

The impacts of a retirement system membership exclusion for visiting teachers from other countries reach beyond the pension system. It may be desirable for other groups and legislative committees to consider those impacts and weigh in on the decision.

Possible SCPP Strategies

1. **Sponsor.** Move the proposal forward as potential SCPP request legislation.

Stakeholder Input

Correspondence attached from:

Mary Donny, Director of Government Relations, VIF, 9/18/2008

Correspondence on file from:

Mary Donny, Director of Government Relations, VIF, 9/22/2008

David Young, CEO, VIF, 11/5/2008

2. **Endorse.** Move the issue forward as potential SCPP endorsed legislation.
3. **Request further study.** Move the issue forward for further study.
4. **Monitor.** Monitor the issue for possible future action.
5. **No action.** Take no action and treat the matter as information only.

Supporting Information

The attached Fact Sheet was submitted by the VIF Program.

Committee Activity

Staff briefed the Full Committee on VIF's proposal at its November meeting. The SCPP took no further action.

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September 18, 2008

The Honorable Mark Schoesler
Chair
The Honorable Steve Conway
Select Committee on Pension Policy
The Office of the State Actuary
P.O. Box 40914
Olympia, WA 98504-0914

Dear Mr. Chair, Mr. Vice Chair and Members of the SCPP,

I am writing on behalf of the Visiting International Faculty Program (VIF) d/b/a the Center for International Education, Inc. currently, the VIF Program is the largest J-1 international teacher exchange program in the United States and is a sponsoring agency as designated by the US Department of State (Exchange Visitor Program P-4-10082).

Since 1989, VIF teachers have transformed the educational experience of American students, invigorating their schools and communities with meaningful encounters. Participating teachers have been highly successful, succeeding at a rate of around 96%. Many have won school-wide, district-wide and statewide awards. The result has been both excellent instruction and daily intercultural interaction for tens of thousands of U.S. students. Last year we hosted over 1650 teachers from 50 different countries and placed them in 7 states including Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida and California.

Before we begin to bring our teachers to a specific state, we work to make sure that there are no regulatory or statutory barriers that would prevent exchange teachers from working in the state. Over the past few years, we have been approached by several school districts requesting VIF to bring our international exchange teachers to Washington. We believe international teachers would find the state of Washington an attractive location to serve as highly qualified educators and cultural ambassadors.

As you may be aware, under the federal J-1 teacher regulations as written in 22 CFR 62.24, there is a subdivision that notes that while the teachers may take a full-time position, they are here on a temporary (non-immigrant) basis. Specifically, the regulations outline the following in 22 CFR 62.24 2 (e) *Teaching position*. ...*The exchange visitor's appointment to a position at a primary or secondary accredited educational institution shall be temporary, even if the teaching position is permanent.* Our government prefers that the teachers not garner assets while they are here in the US. In fact, some of our exchange teachers are granted leave from their home countries and continue to receive pension credits (civil servant status) while they are in the US on our exchange program. At this time, all the states in which we work, except Maryland, exclude exchange teachers from participation in their retirement systems. (We have not yet asked to be excluded from Maryland's system at this time for non-related reasons).

I am therefore writing to request an exemption from the TRS Plans 2 and 3 on behalf of J-1 exchange teachers. We have been touch with the Washington Teachers' Retirement System (Jeff Wickman and Sandra J. Matheson) regarding this issue. They have indicated that while there is an exception to TRS 1 for "alien" teachers, there is no such exemption to TRS Plans 2 and 3 and that a legislative remedy is required. The TRS Plan 1 language in RCW 41.32.240 states....(1) *All teachers employed full time in the public schools shall be members of the system except alien teachers who have been granted a temporary permit to teach as exchange teachers.* Given that there is precedence for an exemption, we ask your consideration of extending that exemption to TRS Plans 2 and 3.

Thank you for your review of our request. I am happy to address any questions you may have or provide any additional information you may require.

Sincerely,

Mary Donny
Director of Government Relations



Fact Sheet

The Visiting International Faculty Program is the United States' largest international-exchange program for U.S. schools and teachers worldwide. VIF searches the globe for the finest educators to serve as full-time classroom teachers and cultural ambassadors, providing a new generation with an international education to succeed in the global marketplace.

Designated as an official sponsor in the U.S. State Department's Exchange Visitor Program, VIF carefully selects highly qualified teachers from more than 50 nations, matches them with U.S. schools and provides comprehensive support to help ensure a rewarding experience.

VIF provides teachers the professional-development experience of teaching in the United States for up to 3 years before returning home to serve as goodwill ambassadors for the U.S. Since 1989, more than 8,000 VIF teachers have positively influenced the lives of more than a million students, educators and community members.

Some key facts about VIF:

- VIF is the largest international-exchange program for U.S. schools and teachers worldwide. This school year, VIF is sponsoring 1,500 highly qualified teachers in 1,000 schools.
- Teachers serve with VIF for 1 to 3 years and return home to share their experiences with students and colleagues, contributing to education in their nations and to a better understanding of the U.S. abroad.
- VIF's thorough selection process includes a detailed application with essays, verification of credentials and experience, professional references, criminal-background checks and personal interviews. VIF is highly selective, placing only 7% of applicants in U.S. schools.
- VIF teachers must be proficient in English, hold a university degree or teaching diploma equivalent to a U.S. bachelor's degree in education, and have had teacher training and experience at the elementary or secondary level.
- VIF's comprehensive support helps ensure a rewarding experience. VIF teachers and host principals are highly satisfied, independent surveys show: 98% of VIF alumni would recommend VIF to a fellow teacher, and school districts rate their VIF teachers as a 9 on a 10-point scale.
- Schools in several U.S. states participate with VIF, including North Carolina, Georgia, Virginia, South Carolina and Florida.
- VIF educators teach more than 20 subjects, including elementary education, a variety of languages, English as a second language, math, science, special education and many more.
- VIF teachers represent over 50 nations, including Argentina, Australia, Canada, Colombia, Costa Rica, Denmark, Ecuador, France, Germany, Ireland, Jamaica, Mexico, New Zealand, Peru, the Philippines, South Africa, Spain, the United Kingdom and Venezuela.