Retire-Rehire: Higher Education

Current Situation

A recent news article raised the issue of an inconsistency in the retire-rehire policy within the state of Washington. Retirees returning to work in a position covered by a plan that is not administered by the Department of Retirement Systems (DRS) are subject to fewer pension restrictions than employees returning to a position that is covered by a DRS-administered plan.

Specifically, Public Employees' Retirement System (PERS) retirees who return to work in state institutions of higher education may receive retirement benefits from PERS while working full time and simultaneously earning additional retirement benefits in a Higher Education Retirement Plan (HERP). HERPs are not administered by DRS.

Policy Highlights

- Supporters of current higher education retire-rehire rules may feel they are necessary for recruitment and retention. Opponents have argued that this is an abuse of the system and is not genuine retirement.
- Higher education institutions have traditionally had the option of providing retirement benefits outside the DRS-administered systems.
- The SCPP has weighed in on this issue in the past. The SCPP sponsored SHB 1545 (2010 c 21), which granted the Higher Education Coordinating Board (HECB) the ability to offer HERPs with certain restrictions.
    - The employee offered the HERP must have already paid into a similar plan, and not be receiving or accruing benefits in a DRS-administered retirement system.

Committee Activity

At the October meeting, the SCPP was presented with five options.

1. Prohibit retirees from receiving pension benefits while earning new benefits in a HERP.
2. Establish Consistency Between PERS and Other Retirees in Higher Education.
3. Ensure a Valid Retirement.

4. System-wide reorganization of retire-rehire rules.
5. Study of Retire-Rehire Rules.

The Executive Committee instructed staff to prepare a bill draft incorporating Option 1 -- Prohibiting retirees from receiving pension benefits while earning new benefits in a HERP.

The SCPP held a work session and public hearing on the bill draft at the November meeting, and the Executive Committee requested a final work session and public hearing on the same bill draft for December. A draft fiscal note will be available at the final hearing. The chair also directed staff to invite interested stakeholders from the higher education community to attend.

Bill Draft

The attached bill draft would prohibit retirees from any DRS-administered system from earning new benefits in a HERP. The prohibition, as drafted, would apply prospectively, and not apply to those who are already in a HERP.

Under this bill draft, the prohibition would apply to retirees of all DRS-administered plans, including the Law Enforcement Officers' and Fire Fighters' Plan 2. The statutory changes in the bill draft affect the higher education statutes, rather than retirement statutes.

Under current law, PERS retirees who return to work are subject to normal retire-rehire rules for PERS, unless they are participating in a HERP. By removing the ability to utilize a HERP, PERS retirees who return to work in higher education will be subject to normal retire-rehire rules.

Under current law, retirees from other DRS-administered systems who return to work in higher education may participate in a HERP part time, subject to the normal retire-rehire rules of their prior system. Under this bill draft, these retirees would continue to be subject to the normal retire-rehire rules of their prior system, except that they could no longer participate part-time in a HERP.

This bill draft retains the provision established in the 2010 Legislative Session that limits the HECB to offering HERPs to employees who have previously paid into similar plans. This provision does not apply to other higher education entities.

The prohibition created by the bill draft is a complete bar to offering HERP benefits to all who are retired, or eligible to retire from a DRS-administered system. In addition to higher-level administrators, this prohibition would be applied to employees in situations such as the following:

- A retiree who is receiving comparatively small benefits, because the retiree either worked less than full time throughout the retiree's career, or because the retiree started public service late in life (e.g. an employee who retires at age 65, with only five years of service credit).
- An employee who is eligible to retire, but changes jobs or employers without officially retiring and collecting benefits.

Draft Actuarial Fiscal Note

A draft actuarial fiscal note will be distributed at the December meeting.

Next Steps

- Nothing further at this time.
- Recommend bill as drafted.
- Recommend amended bill draft.

Materials

- Revised Executive Summary.
- Issue Paper (October 19, 2010).
- Nick Perry and Justin Mayo; *Retired, then rehired: How college workers use loophole to boost pay*. The Seattle Times, June 26, 2010; http://seattletimes.nwsource.com/html/localnews/2012217904_retirerehire27m.html; accessed on October 14, 2010.
- DRS; *Employer Handbook*, Chapter 5: Special Conditions; Reporting in Higher Education; http://www.drs.wa.gov/employer/EmployerHandbook/chpt5/higherEd_options.htm; accessed on October 14, 2010.
- OSA staff bill draft.

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In Brief

Issue

Certain PERS retirees can return to work full time at a higher education institution while collecting full pension benefits. These retirees may also accrue additional retirement benefits in a HERP. Should this practice continue?

Member Impact

This issue could apply to any retired member of PERS who goes to work at an institution of higher education and begins accruing benefits in a HERP.

This paper is focused only on higher education retire-rehire rules. The SCPP has studied other aspects of retire-rehire rules in several previous years.

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Retire-Rehire

(Revised in October 2010 to add options and clarify certain sections.)

Current Situation

A recent news article has raised the issue of an inconsistency in the retire-rehire policy within the State of Washington. Retirees returning to work in a position covered by a plan that is not administered by the Department of Retirement Systems (DRS) are subject to fewer pension restrictions than employees returning to a position that is covered by a DRS-administered plan.

Specifically, certain Public Employees' Retirement System (PERS) retirees who return to work in state institutions of higher education may receive retirement benefits from PERS while working full time and simultaneously earning additional retirement benefits in a Higher Education Retirement Plan (HERP).[1] HERPs are not administered by DRS.

[1] *E.g. TIAA-CREF.*

Background

For clarity, this paper uses the terms "retiree" and "retirees" to mean retired members of a retirement system administered by DRS. This issue paper focuses primarily on the inconsistency in retire-rehire policy identified above. The legal framework surrounding this inconsistency is complex. This paper does not seek to analyze all the issues of statutory construction and interpretation that may apply.

As a general matter, post-retirement employment provisions within the DRS-administered plans (also commonly called "retire-rehire") have changed significantly over the last ten years, and the SCPP studied various aspects of post-retirement employment in 2000, 2002, 2003, 2004, 2005, 2006, and 2007. OSA released a legislatively mandated study on the issue in 2005. For study materials, including information on other aspects of post-retirement employment benefits, please see the SCPP and OSA websites.

SCPP: http://www.leg.wa.gov/SCPP/Pages/IssuesStudied.aspx

OSA:
http://osa.leg.wa.gov/Actuarial_Services/Publications/pension_studies.htm

Some Retirees Are Subject to Fewer Pension Restrictions

Retirees returning to work in a position covered by a plan that is not administered by DRS are subject to fewer pensions restrictions than retirees returning to a position that is covered by a DRS-administered plan. To illustrate the differences between the two, it may be helpful to review the retire-rehire rules for retirees returning to work with an employer whose retirement plan is administered by DRS.

Generally, a retiree who wishes to go back to work in a position covered by a DRS-administered plan will be subject to certain pension restrictions.[2] If the retiree does not meet these requirements, the retiree's benefits will be suspended or reduced.

First, the retirement must be valid. Federal tax law requires the retiree to have a bona fide termination of service before collecting a pension. What constitutes a bona fide termination is determined by all the facts at hand; however, it generally includes a waiting period between retirement and reemployment of at least thirty days.

Federal tax law requires a bona fide termination of service. This typically involves a waiting period of at least 30 days.

To help establish a bona fide termination, Washington law requires the retiree to complete a separation from service. Separation of service means the member has terminated all employment with the employer.[3] For PERS and Teachers' Retirement System (TRS), any prior agreement between the retiring employee and employer for reemployment negates that separation.[4] Violations may be subject to prosecution. The minimum separation in the DRS-administered systems is one calendar month; however. longer separation is required under certain circumstances.

Retirees can typically return to work on a part-time basis without a reduction in benefits.

Second, the retiree is limited to working 867 hours per year. Plans 1 retirees may work additional hours, subject to a longer separation of service and other restrictions.[5]

Third, Plans 2/3 retirees who retire using the alternate early retirement factors are prohibited from utilizing the retire-rehire provisions until reaching age 65.[6] If they do return to work prior to age 65, their pension benefits will be suspended.

If the retiree goes to work in the private sector, then these pension restrictions do not apply, and the retiree can immediately go to work full time without a reduction in benefits.

If the retiree goes to work for a public sector employer whose retirement plan is administered by DRS, but the retiree's new position is not eligible for benefits, then the separation from service rule still applies,[7] as does the limitation for Plans 2/3 retirees under the enhanced early retirement factors. The restriction on hours will not apply.[8]

[2] *Modified rules exist for LEOFF and WSPRS. Please refer to the statutes or plan handbooks.*

[3] *See generally, RCW 41.37.010(28.)*

[4] *RCW 41.32.010(42) and RCW 41.40.010(36).*

[5] *Plans 1 members may work up to 1,500 hours per year, with a lifetime limit of 1900 hours earned in excess of the normal 867 hour yearly limit. See RCW 41.40.037 (PERS) and RCW 41.32.570 (TRS) for complete rules and restrictions.*

[6] *See generally RCW 41.40.630.*

[7] *WAC 415-108-710(1)(c).*

[8] *WAC 415-108-710(2).*

Higher Education Retirement Policy

Higher education institutions can offer HERPs to their employees. HERPs are not administered by DRS, and are not subject to the same retire-rehire restrictions.

Higher education institutions have historically had the option of offering HERPs to employees in lieu of membership in a DRS-administered retirement system.[9] This option predates the expansion of post-retirement employment rules for the Plans 1 in 2001, and has existed in substantially similar form since at least 1979.[10]

HERPs are not part of a retirement plan administered by DRS. Retirees from PERS who go to work in a position covered by a HERP are treated as though they are ineligible for PERS benefits. As noted above, fewer pension restrictions apply for retirees returning to positions ineligible for benefits: A separation from service rule will still apply, as will the limitation for Plans 2/3 retirees under the enhanced early retirement factors. However, the yearly limitation on hours does not apply.[11]

Thus, a member of PERS could retire and begin collecting benefits. After the requisite separation, that retiree could return to work full time without a reduction in benefits and begin accruing additional retirement benefits in a HERP. A PERS member retiring from a position in higher education could even return to the exact same position the member had just retired from, if that employee's position were reclassified by the employer's governing board from PERS to a HERP.

Only PERS retirees can utilize a HERP without a yearly restriction on hours. Retirees of other systems may take advantage of HERPs when offered, but are subject to the normal retire-rehire rules for their previous plan.

This inconsistency only applies to PERS retirees. While retirees from systems other than PERS who go to work in higher education may take advantage of a HERP if offered by the institution, they will still be subject to the normal post-retirement employment pension restrictions, such as the yearly hour limit.[12]

[9] *RCW 28B.10.400.*

[10] *OSA archives only go back to 1979, but the provision appears substantially older than that. Full legislative history could be located upon request.*

[11] *WAC 415-108-710.*

[12] *See Chapter 5 of the DRS Employer Handbook (attached). Also, compare WAC 415-108-710 and 415-112-525. The latter is silent on retirees going back to work in a HERP-covered position.*

Recent Legislation Affecting Higher Education Retirement

In the 2010 Legislative Session the SCPP sponsored a bill (SHB 1545, 2010 c 21) to allow the Higher Education Coordinating Board (HECB) to offer HERPs to its employees. Prior to the passage of that bill, all public higher education institutions in the state, including colleges, universities, and the State Board for Community and Technical Colleges (SBCTC), could offer HERPs except the HECB.

Under the legislation, the HECB can offer HERPs, but only under two conditions. These conditions do not apply to the other higher education institutions:

- The employee must have previously contributed to a similar plan.
- The HECB is prohibited from offering a HERP to any employee who is receiving or accruing benefits under a DRS-administered plan.

What Are The Impacts Of PERS Employees Utilizing HERPs?

The impact on the pension systems will be determined by how many PERS retirees are utilizing a HERP, and whether there are any direct fiscal costs created by that utilization.

Theoretically, the governing body of a higher education institution can offer a HERP to any PERS retiree who comes to work for that institution.

How Many People?

Theoretically, any higher education employer could offer a HERP to its employees, including PERS retirees. The governing body of the higher education institution makes that decision. DRS has provided a list of all retired employees who have gone back to work at a state institution of higher education. Based on that data, OSA extracted the following information.

Please note, the following numbers do not indicate who is utilizing a HERP without a yearly restriction on hours. Instead they show a high water mark -- the maximum amount of PERS retirees who might be opting into a HERP at this time.

These numbers include members who have separated, but have not been reported as separated. These numbers also include members that are not accruing additional benefits in either a HERP or a DRS-administered plan.

Determining precisely how many employees are currently utilizing the inconsistency would require additional data collection.

Retire-Rehire	
	Total
Number of members who retired from a DRS-administered System and returned to work at a higher education Institution	1,359
PERS 1	
Members who retired from a DRS-administered system and went to work at a higher education institution	548
Members who retired from any higher education institution and returned to work at any higher education institution	398
Members who returned to work at the same institution from which they retired	349
PERS 2/3	
Members who retired from a DRS-administered system and went to work at a higher education institution	168
Members who retired from any higher education institution and returned to work at any higher education institution	130
Members who returned to work at the same institution from which they retired	124

Fiscal Costs

Fiscal costs may arise if employees are retiring earlier than they otherwise would have.

Fiscal costs may arise if the provision is causing employees to retire earlier than they would have without the option to participate in a HERP. Earlier retirement is a cost to the system because employees will typically receive benefits for a longer time, while having less time to pay for those benefits. An experience study, utilizing several years worth of data, would be required to best determine if PERS retirees who go to work for higher education employers are retiring earlier.

In 2005, OSA conducted an experience study on the fiscal impacts of retire-rehire rules unique to PERS 1 and TRS 1. That report is available at the following link.
http://osa.leg.wa.gov/Actuarial_Services/Publications/PDF_Docs/Pension_Studies/2005_Post_Ret_Empl_Rpt.pdf

Policy Questions

When Should Retire-Rehire Restrictions Apply And How Strict Should They Be?

Some policy makers may feel that allowing a retiree to return to work full time and accrue additional benefits is a way to reward service beyond the required time and may be an effective retention tool. Others may feel it is double dipping or even an abuse of the system.

Higher education employers' stated need for retention tools for PERS 1 retirees may be related to the service credit cap in PERS 1. Members of PERS 1 stop earning additional service credit after thirty years of service. Even if the member serves beyond that time, they will earn a maximum of thirty years service credit (equal to 60 percent of average salary). Depending on when that member started their state service, a PERS 1 member will likely still be within working age at the point the member reaches the cap. These members may wish to stay in the workforce and continue accruing additional benefits until final retirement. Without this provision, those employees would need to seek employment at a private or out-of-state institution in order to work full time and continue accruing benefits.

Others may oppose unrestricted employment of retirees (often referred to as "double dipping ") -- even if there is a stated need and even if it is allowed on a limited part-time basis. Those who take this view may feel that the purpose of a retirement benefit is to assist employees who have left the workforce. They may believe that employees should not be returning to a public sector position while drawing a pension, or that returning part-time should be sufficient.

Are Recruitment And Retention Tools Necessary In The Current Economic Climate?

Some may feel additional recruitment and retention tools are not necessary in the current economic environment.

Some policy makers may feel that given the current rate of nation-wide unemployment, higher education institutions do not need additional recruitment and retention tools. Also, returning retirees fill jobs that could be taken by new employees and may limit promotion and advancement opportunities for existing employees.

Others may feel that the total amount of applicants does not, of itself, ensure the recruitment of top candidates with the required skills and experience, and that these optional benefits are necessary to compete with other institutions. For example, during hearings for the HECB bill (SHB 1545) last session, HECB staff testified that the inability to offer a HERP was a recruitment disadvantage for their organization.

Should Higher Education Retirement Policy Be Coordinated With Policy For DRS-Administered Systems?

While the SCPP does not typically weigh in on matters of higher education policy, it has in some cases where both retirement and higher education policy were implicated. For example, the SCPP sponsored the bill that granted the HECB the ability to offer HERPs.

The ability of a state institution of higher education to offer and administer HERPs, and the conditions under which those HERPs are offered appear well within the jurisdiction of the Legislature. Some policy makers may feel that the same retirement rules should apply to higher education and DRS-administered systems alike.

The SCPP has weighed in on matters where both higher education and pension policy are implicated.

However, there are many inconsistencies in the retirement rules, including those within the DRS-administered systems. Other policy makers may feel that inconsistencies are necessary to accommodate different needs of members and employers of each plan, and that higher education policy distinction does precisely that.

Is Administrative Practice And Enforcement The Issue?

Some policymakers may view this as an issue of administrative practice and/or enforcement.

Some policy makers may feel that allowing retirees to work full time in higher education while receiving benefits and accruing new benefits is acceptable, so long as procedures are followed.

As noted above, current law requires a minimum separation of service of thirty days, even for PERS members utilizing HERPs. A prior oral or written agreement between the retiring employee and the employer may negate the separation of service. If a prior agreement exists, or if the employee returns prior to a bona fide separation of service, then a real retirement has not taken place. Not only could the retiree's benefits be suspended, but both sides could be subject to prosecution.

A recent article (attached), reports that some retirees have returned to work prior to the full thirty-day separation of service, and that the position was never advertised.

Other states

Five peer states have a similar provision, while four do not. One state, Idaho, has a similar provision, but with a unique requirement.

This section focuses exclusively on higher education retire-rehire provisions similar to Washington's, and does not reflect the general post-retirement rules for these states.

Five peer states (CA, CO, IA, MI, OR) have higher education rules similar to Washington, where an employee can receive benefits from the state-administered plan while accruing new benefits in an alternate plan, without restrictions.

One state (ID) will allow this, but only under one condition: The employee must be moving to a position that is not related to the one he or she had previously held. This option is intended to allow retirees to utilize their expertise in teaching. So, for example, an accountant for the state could retire, then go to work teaching accounting at the university. That person could not, however, work for the university as an accountant.

Four peer states (FL, MO, OH, WI) do not have this option.

- Florida.
  - Florida had a similar option. That option was repealed, effective July 1 of this year.
- Ohio.
  - Among other restrictions, an employee may only utilize the HERP-equivalent if he or she has less than five years of service in the normal public retiree plan, effectively removing retirees from eligibility.[13]
- Missouri.
  - An employee cannot participate in the HERP-equivalent if he or she has any service credit in the state retirement system.
- Wisconsin
  - Does not have a comparable HERP.

[13] *For clarification, a recent NPR broadcast stated that post-retirement employment is not restricted in Ohio. However, that broadcast was referring to post-retirement employment in general. There is no higher education rule similar to Washington's. The broadcast is available here: http://www.npr.org/templates/story/story.php?storyId=129595951.*

Possible Options

The following options are not an exhaustive list and may not be mutually exclusive. At the request of the Executive Committee, these options were prepared by staff in consultation with human resources and retirement personnel in higher education.

Many of these options will require futher development by policy makers before they can be implemented. In general, they can be developed to address one or more of the following concerns:

- PERS retirees are treated differently from retirees in other systems when returning to work in higher education.
- PERS retirees can work in higher education full time while receiving full benefits, and earning new benefits in a HERP.
- Members can retire and return to the same job or employer.

- ❖ Separation of service requirements may be insufficient.
- ❖ Current safeguards are allegedly not being enforced, or do not go far enough.
- ❖ Public perception or perceived lack of transparency in rehiring retirees.

Please note, depending on how the SCPP chooses to pursue these or any other options, there may be issues regarding contractual rights. The SCPP may wish to consult legal counsel before proceeding.

As a general rule, the state can change benefit provisions that are applied to only new hires at any time, while changes to benefits for current or retired members may be subject to legal challenge.

Option 1 — Prohibit Retirees From Receiving Pension Benefits While Earning New Benefits in a HERP

Retirees could be prohibited from accruing new benefits in a HERP while receiving DRS-administered benefits. This option is substantially similar to the HECB rule enacted in the last legislative session.

This option is narrow, and would eliminate triple dipping. However, it reaches into higher education policy, which is not typically the purview of the SCPP.

Option 2 — Establish Consistency Between PERS and Other Retirees in Higher Education

As a general policy, the state tries to provide similar benefits wherever possible. Currently, PERS retirees can return to work, collect pension benefits, and earn benefits in a HERP on an unrestricted basis. In contrast, retirees from other state systems may do the same but only on a restricted basis; that is, they may do so subject to yearly hour limits and procedural safeguards. Retire-rehire rules could be changed so that PERS retirees in higher education are treated the same as those from other systems.

In addition, policy makers may wish to apply the additional procedural safeguards that currently only apply to retirees in Plans 1 (see above) to retirees from all systems and plans. This option would help ensure all retirees working in higher education are treated the same.

Option 3 — Ensure a Valid Retirement

When retirees return to work soon after retiring, or return to the same job or employer, concerns may arise that the retirement wasn't valid. Policy makers may wish to evaluate both the procedural safeguards and enforcement procedures currently in place to ensure that retirement is valid.

Depending on how it is structured, this option could help eliminate or expose abuses, and combat negative public perceptions of retire-rehire. However, it opens up the possibility of reevaluating system-wide retire-rehire rules, rather than the smaller issue of higher education retire-rehire rules.

Safeguards

Policy makers may wish to determine if current safeguards are sufficient, or if new or expanded safeguards are needed. As noted above, some safeguards only apply in certain circumstances, and policy makers may wish to determine if those safeguards should apply more broadly.

Sample safeguards include:

- Increased disclosure and retention of records.
- Increased transparency in the hiring process.
- A longer separation from service.

Enforcement

Policy makers may wish to determine if current enforcement provisions are sufficient, or if additional enforcement tools are needed. Further, if enforcement is needed, policy makers may wish to determine who is in the best position to provide that enforcement.

Sample enforcement tools include:

- New or revised filing and reporting requirements.
- New or expanded criminal sanctions.

Option 4 — System-wide reorganization of retire-rehire rules

A complete reorganization would allow policy makers to move forward with a clean slate. This option would also allow policy makers to determine if the conditions that gave rise to the retire-rehire rule changes in 2001 are still present. However, it may require more time to develop a comprehensive strategy, and this option is not narrowly directed at the smaller issue of higher education retire-rehire rules.

Option 5 — Study of Retire-Rehire Rules

A study could be conducted of retire-rehire rules in one of several ways. It could be conducted at any level:

- OSA, at the direction of the SCPP.

- ◊ Prior OSA studies in 2005 and 2003.

❖ Multi-agency, at the direction of the Legislature.

It could also be directed narrowly at one or more of the concerns listed above, or it could tackle the broader issue of system-wide retire-rehire rules.

Sample questions:

- ❖ Is current policy adequate from both business management and workforce management perspectives?
- ❖ Is restructuring necessary?

This option may help develop a comprehensive strategy that addresses any or all of the possible concerns policy makers may have with retire-rehire rules, but it would take time to develop, and would not result in immediate measures.

Conclusion

Certain PERS retirees may go to work full time at a state institution of higher education while collecting unreduced pension benefits and accruing additional benefits in a HERP.

Supporters may feel it is an important recruitment and retention tool, and that current procedures are adequate. Opponents may feel it is double dipping, or not necessary in the current economic climate.

Supporters may also feel that different rules recognize differences in demographics and needs, while opponents may feel that retirement rules should be consistent.

Attachments

1. Nick Perry and Justin Mayo; *Retired, then rehired: How college workers use loophole to boost pay*. The Seattle Times, June 26, 2010; http://seattletimes.nwsource.com/html/localnews/2012217904_retirerehire27m.html; accessed on October 14, 2010.

2. DRS; *Employer Handbook*, Chapter 5: Special Conditions; Reporting in Higher Education; http://www.drs.wa.gov/employer/EmployerHandbook/chpt5/higherEd_options.htm; accessed on October 14, 2010.

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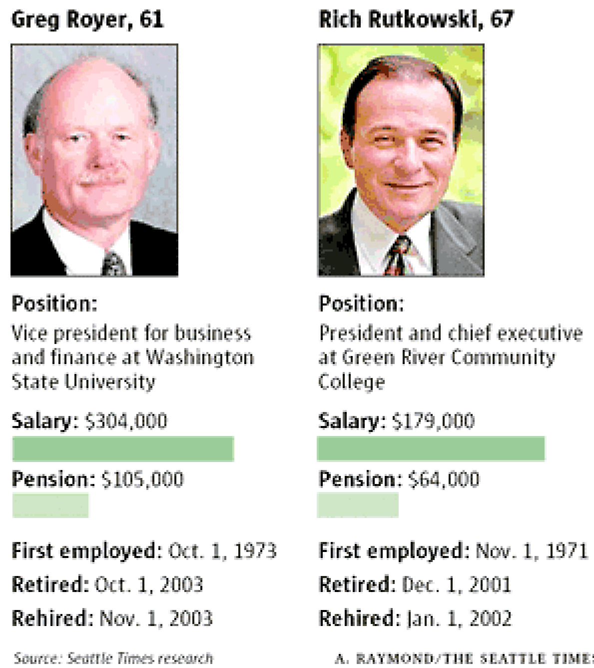
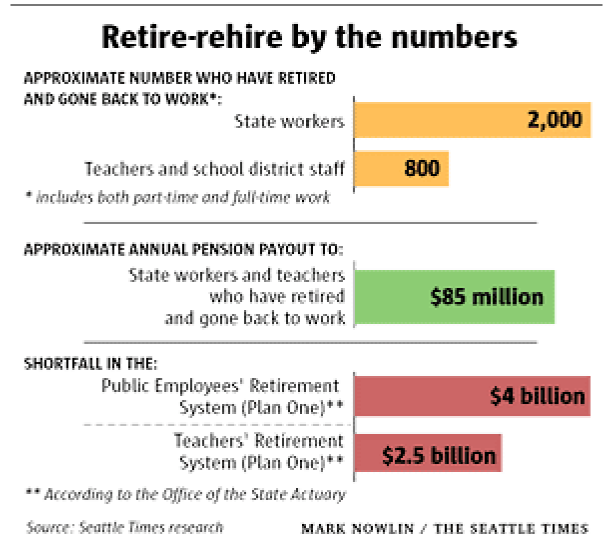
The Seattle Times

Sunday, June 27, 2010 - Page updated at 12:01 AM

Retired, then rehired: How college workers use loophole to boost pay

By Nick Perry and Justin Mayo
Seattle Times staff reporters





PULLMAN â€" Greg Royer ranks among the state's top-paid employees, with a salary of $304,000. But that's just part of his income. For nearly seven years, he's also collected an annual pension of $105,000.

Royer, the vice president for business and finance at Washington State University, tops a long list of college administrative staff members who've been able to boost their incomes by up to 60 percent by exploiting a loophole in state retirement laws.

A Seattle Times investigation has found that at least 40 university or community-college employees retired and were rehired within weeks, often returning to the same job without the position ever being advertised. That has allowed them to double dip by collecting both a salary and a pension.

The pattern of quickie retirements has continued despite the Legislature's efforts to crack down.

A Times analysis of state payroll and retirement records shows that, as of the beginning of this year, about 2,000 people were collecting both wages and a pension from the state. In about two-thirds of those cases, however, retirees had returned to a state job on a part-time or on-call basis.

The Times found that 58 workers â€" including the 40 in higher education â€" had retired and been rehired full-time within three months. WSU and the University of Washington together accounted for 30 of those cases. A number of state agencies, most notably the Washington State Patrol, accounted for the cases outside of higher education.

At WSU, Royer, 61, has collected about $700,000 in retirement benefits while continuing to draw his salary. In recent years, he's been responsible for overseeing some of the deepest budget cuts in the university's history. Last year, for instance, WSU announced it was cutting about 360 jobs, axing its theater and dance program and hiking tuition by 14 percent.

Indeed, these college administrative employees are benefiting at a time when state higher-education funding is being slashed. And most have been receiving money from a pension plan that's underfunded by some $4 billion â€” a shortfall that leaves every state taxpayer on the hook.

While the double dipping raises ethical questions, it typically falls within the boundaries of state law. In some cases, however, The Times found that institutions flouted or ignored the rules altogether that prohibit them from promising employees they'll get their jobs back if they retire.

The trend has sometimes been set by those at the top. Royer's retire-rehire was approved by then-President Lane Rawlins.

At Green River Community College, President Rich Rutkowski, 67, retired for a month in 2001 in a move approved by the college's trustees. That enables him to collect $64,000 a year in retirement benefits on top of his $179,000 salary. Under his watch, three other staffers also have each retired for a month and then been rehired.

Some have been double dipping for more than a decade. At The Evergreen State College, Al Saari retired for a month in 1999. He now collects a salary of $78,000 and a pension of $39,000.

"I take it a day at a time," said the 80-year-old project manager. "I'll stay as long as I'm needed by the college, and I'm productive, and I feel good."

The quickie retirements were troubling enough to WSU President Elson Floyd that after The Times began investigating, he directed senior staff to end the practice of hiring people back without an open job search.

And Royer, who made front-page news 18 months ago after getting into a physical altercation with then-Provost Steven Hoch, told his superiors recently that he will leave WSU this week, several months earlier than he'd previously planned.

Royer declined repeated requests to be interviewed for this story.

Trail of e-mails

E-mails and other public records collected by The Times help illuminate how Royer and his deputy Rich Heath â€” who collects a salary of $170,000 plus retirement benefits of $56,000 after retiring from the state Attorney General's Office in 2001 â€” handled one employee's retirement and return to work.

Those e-mails also show how WSU danced around the rule that prohibits assuring employees they'll get a job back after they leave.

In 2006, Chris Tapfer, WSU's emergency-management coordinator, e-mailed a few colleagues to tell them he was retiring: "This doesn't mean I am ready to hang things up and head for the rocking chair," he wrote to one. "I am hoping that Rich and Greg will find my skills and abilities still useful to WSU and following the required procedures, want to bring me back to work."

In another e-mail, he said he'd "made Rich aware of my availability if he wanted to have me hired back for the position after the appropriate waiting period."

During the early days of his retirement, Tapfer continued to answer work e-mails and inquiries for assistance, asking that colleagues "keep things official" by putting their names to any of his responses they might use.

Tapfer's job was never advertised. Two weeks after Tapfer retired, Heath wrote an e-mail to his boss, Royer, asking for permission to rehire him.

"His retirement has created a void in emergency management that cannot effectively be filled by anyone other than Chris," Heath wrote. "As a result, I would like to hire him to fill the position he vacated."

Eight minutes later, Royer responded: "Yes. You have my permission."

After five weeks, the circle was complete. Tapfer was back working his old job. He'd even been given a pay raise, records show. But the real income boost came from his pension.

When Tapfer told colleagues he'd returned to work, one noted that he'd been gone a few days longer than the minimum retirement period of one month.

"What took so long? Today is the 6th?" the colleague wrote Tapfer.

Tapfer responded: "It was just too hard to give up all that lounging around and goofing off. I needed a few extra days to learn to get out of bed in the morning and get going again. Glad to be back and working with you again."

In an interview, Tapfer, 58, who collects a salary of $70,000 and a pension of $36,000, said he had "no inkling" that he might get rehired at the time he left WSU.

"I'm an ordinary guy who is working for a living. I put in a lot of years, and you're making out like I'm doing something wrong," he said. "If you want to criticize the system, fine, but don't criticize the individual."

Tapfer, who has worked at WSU for 35 years, sits alone in an office that's surrounded by empty cubicles. A clock above the cubicles is frozen in time, the small hand on the 5, the big hand on the 12. This used to be a much livelier place, but all the other workers are gone now â€” consolidated into other departments or laid off â€” victims of the relentless budget cuts.

Shifting pension rules

Washington's retirement system was never supposed to work like this.

The way the state system was set up in 1947 left almost no margin for double dipping. State employees could retire and claim regular pension benefits only at age 60 or after 35 years of service. By age 65, all state employees were compelled to retire.

The system has changed many times since then. Compulsory-retirement ages were abandoned for most jobs, and rules were put in place to try to prevent double dipping.

Those rules were temporarily lifted in 2001 to encourage more teachers to return to work to relieve a shortage. That led to a flood of state employees retiring and getting rehired, prompting lawmakers to again clamp down on the practice in 2003. Olympia has been trying to plug loopholes since.

As a result, most state employees can return to work for only up to 40 percent of the hours they worked as full-timers â€" or lose some of their pension benefits. But thanks to a glaring loophole, many higher-education employees have been able to skirt the rules.

It's because colleges and universities typically have two parallel retirement systems â€" the state system and a separate system administered by the institution. Administrative employees can often retire under the state system and return to work under the university plan.

By switching plans, the workers put themselves beyond the reach of state limitations on double dipping. In the eyes of the state, it's as if the workers returned to a job in the private sector. In reality, the only thing that has changed is some paperwork.

The returning workers are also able to benefit from a second retirement plan, typically receiving a generous state match of up to 10 percent of their wages.

"Under current law, an individual who opts into one of the higher-education retirement plans has no restriction on the hours they can work," said Dave Nelsen, the legal-services manager for the state Department of Retirement Systems**.**

Nelsen said it may be hard to find a legislative fix that would withstand a court challenge.

Rep. Steve Conway, D-Tacoma, the vice chair of the Legislature's Select Committee on Pension Policy, said when The Times contacted him it was the first he'd heard of the higher-ed loophole, and he would now look into it. He said only on rare occasions in which there was a genuine shortage of skilled labor was it acceptable to re-employ a retired worker.

"It's not designed to let people make excessive salaries in the last years of their employment," he said. "If there's an abuse here, we need to correct it."

The people contacted for this story offered a variety of justifications for double dipping. Some said they were not paid adequately to begin with. Others said they saw no ethical problem so long as they stayed within legal boundaries.

A number pointed out that after 30 years of work, they had maximized their potential pension payout and would be "losing money" by continuing to make their small contributions to the pension system.

However, almost all employees enrolled in the system stand to gain far more back in pension payouts than they ever contribute through paycheck deductions. Most people will receive back their lifetime contributions and then some within three years of retirement, according to a Times analysis.

Besides higher education, there are other exceptions to double-dipping rules. Police officers and firefighters, for example, can retire and then return to work full time for the state in a different kind of job.

Insider deals prohibited

State pension laws make it clear that any kind of prearrangement â€" either verbal or written â€" to rehire a retiring worker can nullify that employee's right to collect his or her pension.

"If a person had an agreement or a contract to be hired back, then it's not a valid separation, and they're not a valid retiree," said Nelsen.

But The Times interviewed several people who, unaware of that rule, said their supervisors promised them their jobs back before they retired.

Noele Cooper, an administrative assistant at WSU, retired for a month in 2003. She said her bosses at the time, Dean Michael Tate and Associate Dean Linda Fox, helped arrange the whole thing.

"I was not in a financial position to actually retire," said Cooper, 66. "I trusted Dean Tate to give me his word. I had to say I would come back for a certain number of years. I told him I'd work at least another five years."

Soon after she retired, Cooper said, she got a call from Fox: Was she ready to come back to work?

Tate did not return calls from The Times. Fox said she didn't recall the details, but did remember that Tate had offered Cooper her old job. Cooper now collects a salary of $57,000 and a pension of $25,000.

At Green River Community College, administrative assistant Shirley Benson, who collects a salary of $71,000 and a pension of $27,000, retired for six weeks in 2001. She said she was promised her job back before she left.

"It was stated that if I wanted to come back," she said, "they would hire me for a year and see how it went from there."

That promise came from her boss, Debbie Knipschield, according to Benson. A year after Benson retired, Knipschield also went through the process, and now collects a salary of $83,000 plus a pension of $45,000.

Rutkowski, the college president, said that while he'd been responsible for rehiring Benson, Knipschield and another retiree, he never made them any promises. He added that he saw no reason to advertise any of their jobs when they left.

"You cannot find a better person in any one of those occupations in the state of Washington," he said. "You couldn't then and you can't now."

Rutkowski said his own decision to go through the process was financial.

"I had served 30 years and consequently was entitled to the pension," he said. "And as far as the college was concerned, they needed a president."

"I don't think there are any ethical issues involved, regardless of the fact that it doesn't feel good for many people," he said. "I could have gone to any other community college and stepped in and taken over, and at a much higher salary, to tell you the truth."

Rutkowski has announced he'll leave Green River this week after more than 38 years. Gov. Chris Gregoire recently declared June 11 "Richard Rutkowski Day" in honor of his service.

As this story was being reported, WSU's position shifted.

In March, university spokesman Darin Watkins said that retire-rehire "is a good deal for us because we end up retaining their services."

"It's no secret that when an executive leaves, you have to pay more money to bring in another executive," he said. "From the university's position, we are saving money by rehiring."

Later, Watkins said the practice occurred only under previous WSU presidents â€” a position he amended based on the facts.

Then, in April, President Floyd sent a message to university managers: "It recently has come to my attention that in the past, WSU has engaged in a practice of directly rehiring certain individuals who have retired ... "

"While this practice is permitted within state law, it is not a practice that I believe to be in the best interest of the institution ... Effective immediately, WSU will cease the practice of directly rehiring WSU retirees full-time into the same or similar position, without an open and competitive search for the position."

In an interview, Floyd said that once people retire, they should go. From now on, he said, all jobs will be opened up for anyone who might want to apply.

Meanwhile, this year WSU has been trying to balance the budget by offering long-term employees an incentive of more than $23,000 to retire â€” and leave the building.

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Employers

Chapter 5: Special Conditions

Reporting in Higher Education

Retirement Plan Options for PERS or TRS Members

Active PERS or TRS Members
Depending upon the rules at your institution, an active PERS or TRS member who is eligible for coverage by a Higher Education Retirement Plan (HERP) *may* be allowed the following options for retirement coverage.

The employee may:

- continue membership in PERS or TRS and not join a HERP;
- continue membership in PERS or TRS until vested, then end PERS or TRS membership and join a HERP;
- end PERS or TRS membership immediately and join a HERP; or under some institutions' rules
- end PERS or TRS membership immediately and postpone making contributions to a HERP for up to two years. (Employees of community colleges, technical colleges and several of the four-year higher education institutions no longer offer this option).

Please contact your plan administrator for other options that may be available.

An active member of PERS Plan 1, Plan 2, or Plan 3 can continue membership in PERS if employed in an eligible PERS position. An active member of TRS Plan 1 can continue membership in TRS if hired under a written contract, regardless of the number of hours of employment. An active member of TRS Plan 2 or TRS Plan 3 can continue membership in TRS if employed in an eligible TRS position. (See Chapter 2 for details about membership requirements.)

If an employee elects to continue PERS or TRS membership, report him or her on the monthly transmittal from the first day of eligible employment.

> **Note**: When describing the membership options, let the employee know this is a one-time, irrevocable election. An employee cannot elect to end PERS or TRS membership and then later, based on the same employment with you, elect to rejoin PERS or TRS.

Former PERS or TRS Members
A former member of PERS or TRS who has withdrawn contributions from the system is treated the same as an individual who has never been a PERS or TRS member. If the individual is eligible for HERP coverage, he or she may elect to join a HERP immediately; or if allowed, wait up to two years (without any retirement coverage) and then join a HERP.

Reporting Retirees
Retirees from TRS, PERS, PSERS, SERS, LEOFF, WSPRS, or JRS hired to work for a higher education institution are subject to the same reporting requirements as retirees hired to work for any DRS covered employer. Please refer to Chapters 7 and 8 for instructions for reporting retirees on the transmittal.

> **Note**: A retiree from PERS Plan 1, 2 or 3, who has been separated from employment for one full calendar month following the retirement accrual date, may continue to receive his/her monthly benefit as long as they are an active member of a higher education retirement plan. (WAC 415-108-710). The retiree must be reported on the transmittal report as a retiree employed in an ineligible position (type code 99) as long as they remain an active member of a HERP.

A retiree from a system other than PERS, who is an active member of a HERP, will be subject to the DRS retiree return-to-work rules for the system and plan from which he/she retired. You must also report the correct position status; e.g., eligible or ineligible via type code 98 or 99 respectively.

If you hire a TRS Plan 1 retiree who has the option to participate in a HERP and chooses to do so, you must contact ESS.

Retire-Rehire: Higher Education

Bill Draft

Revised December 1, 2010

Revised version inserts "<u>, or are eligible to retire</u>" on page 3, line 12.

AN ACT Relating to higher education employees' annuities and retirement income plans; and amending RCW 28B.10.400.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 28B.10.400 and 2010 c 21 s 1 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, ~~and~~ the state board for community and technical colleges<u>, and the higher education coordinating board</u> are authorized and empowered:

(1) To assist the faculties and such other employees as any such board may designate in the purchase of old age annuities or retirement income plans under such rules as any such board may prescribe<u>, subject to the restrictions in subsection (4) of this section</u>. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington

State University and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;

(2) To provide, under such rules and regulations as any such board may prescribe for the faculty members or other employees under its supervision, for the retirement of any such faculty member or other employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by subsection (3) of this section and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate;

(3) To pay to any such retired person or to his or her designated beneficiary(s), each year after his or her retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by the retired person or the retired person's designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his or her highest two consecutive years of full time service under an annuity or retirement income plan established pursuant to subsection (1) of this section at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or the retired person's designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection to which such designated beneficiary(s) would have been entitled had said

deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be (a) the surviving spouse of the retiree; or, (b) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education;

(4) <u>Boards are prohibited from offering a purchased annuity or retirement income plan authorized under this section to employees hired on or after July 1, 2011, who have retired, or are eligible to retire from a public employees' retirement system described in RCW 41.50.030.</u> The higher education coordinating board~~ is also authorized and empowered as described in this section, subject to the following: The board ~~shall only offer participation in a purchased annuity or retirement income plan authorized under this section to employees who have previously contributed premiums to a similar qualified plan~~, and the board is prohibited from offering or funding such a plan authorized under this section for the benefit of any retiree who is receiving or accruing a retirement allowance from a public employees' retirement system under Title 41 RCW or chapter 43.43 RCW~~.

<u>NEW SECTION.</u> **Sec. 2.** This act takes effect July 1, 2011.

--- END ---

DRAFT
ACTUARY'S FISCAL NOTE

RESPONDING AGENCY:	CODE:	DATE:	PROPOSAL [NAME or Z-NUMBER]:
Office of the State Actuary	**035**	**12/10/10**	**Retire-Rehire: Higher Education**

WHAT THE READER SHOULD KNOW

The Office of the State Actuary ("we") prepared this draft fiscal note based on our understanding of the proposal as of the date shown above. We intend this draft fiscal note to be used by the Select Committee on Pension Policy during the 2010 Interim only. If a legislator introduces this proposal as a bill during the next legislative session, we will prepare a final fiscal note based on that bill language. The actuarial results shown in this draft fiscal note may change when we prepare our final version for the Legislature.

We advise readers of this draft fiscal note to seek professional guidance as to its content and interpretation, and not to rely upon this communication without such guidance. Please read the analysis shown in this draft fiscal note as a whole. Distribution of, or reliance on, only parts of this draft fiscal note could result in its misuse, and may mislead others.

SUMMARY OF RESULTS

This bill draft prohibits higher education entities from offering Higher Education Retirement Plans (HERPs) to someone who is retired, or eligible to retire from a state-administered retirement system.

The proposal does not directly change pension benefits in Washington's public retirement systems. However, we believe it has a small, but indeterminate, savings to the systems because it could change future retirement behavior. We display potential cost impacts in the "How The Results Change When The Assumptions Change" section of this fiscal note.

Please see the body of this draft fiscal note for additional detail.

WHAT IS THE PROPOSED CHANGE?

Summary Of Change

This proposal impacts the following systems:

- ❖ Public Employees' Retirement System (PERS).
- ❖ Teachers' Retirement System (TRS).
- ❖ School Employees' Retirement System (SERS).
- ❖ Public Safety Employees' Retirement System (PSERS).
- ❖ Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF).
- ❖ Washington State Patrol Retirement System (WSPRS).
- ❖ Judicial Retirement System (JRS).
- ❖ Judges Retirement Fund (Judges).

This proposal prohibits higher education entities from offering HERPs to anyone who is retired, or eligible to retire, from any retirement system administered by the Department of Retirement Systems (DRS).

The result is that a retiree or person eligible to retire who returns to work in higher education is subject to the same retire-rehire rules for those who return to work with other public employers. These rules will vary by plan, but in general a retiree may not receive retirement benefits and accrue new benefits in a HERP at the same time, and must adhere to yearly work hour limits in order to avoid a suspension of their retirement benefits.

This bill draft applies prospectively, and does not affect those who are already participating in a HERP.

Effective Date: July 1, 2011.

What Is The Current Situation?

Under current law, retirees are not prohibited from returning to work. However, if the retiree wishes to work and continue receiving retirement benefits at the same time, the retiree may do so as long as certain conditions are met. If those conditions are not met, DRS will suspend that retiree's benefit. Conditions will vary by plan, but generally require a minimum separation of service and a maximum yearly work hour limit (867 - 1500 hours, depending on plan).

Employees in higher education, including retirees, may be offered a HERP in lieu of benefits in a retirement system administered by DRS. Retirees of retirement systems other than PERS who participate in a HERP are subject to the yearly work hour limits, while retirees from PERS who participate in a HERP are not.

The result under current law is as follows:

- ❖ Retirees of PERS may simultaneously receive retirement benefits, return to work full time in higher education, and accrue new benefits in a HERP.
- ❖ Retirees of other systems may simultaneously receive benefits, work part time in higher education, and accrue new benefits in a HERP.

The term "HERP" refers to Higher Education Retirement Plans created under RCW 28B.10.400.

Who Is Impacted And How?

We estimate this proposal could affect any current or future retirees of these systems through altered post-retirement employment rules. The table below shows active, terminated vested, and service retiree counts for each system and plan.

Members Impacted			
System/Plan	Actives	Terminated Vested	Retirees
PERS 1	10,354	2,125	46,619
PERS 2	121,800	22,824	16,773
PERS 3	27,081	3,125	805
PERS Total	159,235	28,074	64,197
TRS 1	5,204	841	32,653
TRS 2	9,174	2,472	1,923
TRS 3	53,010	5,345	1,617
TRS Total	67,388	8,658	36,193
SERS 2	20,197	4,644	2,570
SERS 3	32,277	4,549	1,638
SERS Total	52,474	9,193	4,208
PSERS 2	4,340	0	1
LEOFF 1	356	2	2,735
LEOFF 2	16,951	672	1,128
LEOFF Total	17,307	674	3,863
WSPRS 1	830	69	708
WSPRS 2	264	4	0
WSPRS Total	1,094	73	708
JRS	9	0	85
Judges	0	0	9

This proposal could impact all Plan 2 members of these systems through potential decreased contribution rates. With the exception of WSPRS members, this proposal will not affect member contribution rates in Plan 1 since they are fixed in statute. Additionally, this proposal will not affect member contribution rates in Plan 3 since Plan 3 members do not contribute to their employer-provided defined benefit.

See the Data Used section of this draft fiscal note for more details.

WHY THIS PROPOSAL HAS A POTENTIAL SAVINGS AND WHO RECEIVES IT?

Why This Proposal Has A Potential Savings

This proposal imposes retire-rehire rules on a group of retirees who currently have no restrictions. We believe some members will elect to delay retirement if their retire-rehire provisions are more limited than under current law.

Please see OSA's 2005 Post-Retirement Employment Report for additional information on how retire-rehire provisions impact retirement behavior. http://osa.leg.wa.gov/Actuarial_Services/Publications/PDF_Docs/Pension_Studies/2005_Post_Ret_Empl_Rpt.pdf

Who Will Receive These Potential Savings?

The potential savings from this proposal will be divided between members, local employers, and the state according to standard funding methods that vary by plan:

- LEOFF 2: 50 percent member, 30 percent employer, and 20 percent State.
- Plan 1: 100 percent employer.
- Plan 2, WSPRS: 50 percent member and 50 percent employer.
- Plan 3: 100 percent employer.

All employers of PERS, SERS, and PSERS would pay any altered PERS Plan 1 UAAL contribution rates.

HOW WE VALUED THESE POTENTIAL SAVINGS

Assumptions We Made

We were not able to collect retire-rehire experience data for this specific population to find the expected change in retirement behavior for this proposal. Therefore, we were unable to set best-estimate retirement assumptions. As a result, this draft fiscal note shows an indeterminate fiscal impact for this proposal.

Based on the findings from the 2005 Post-Retirement Employment Report, we believe the proposal will result in a savings to the state's public retirement systems because some members will delay retirement when faced with more restrictive retire-rehire rules. Delayed retirement generally results in a savings to the retirement system. However, we believe the savings are immaterial.

To evaluate the magnitude of the potential savings from the proposal, we changed the assumed retirement behavior in PERS 1. Please see the section How The Results Change When The Assumptions Change for additional detail.

How We Applied These Assumptions

To evaluate the magnitude of the potential savings in PERS 1 from this proposal, we changed the assumed PERS 1 retirement rates and measured the resulting change in liability. We did not identify the magnitude of the potential savings in PERS 2/3.

Otherwise, we developed these costs using the same methods as disclosed in the June 30, 2009, Actuarial Valuation Report (AVR).

Special Data Needed

We relied on data from DRS, the University of Washington, Washington State University, and the State Board for Community and Technical Colleges to estimate a potential retirement rate change in PERS 1. We did not audit this data.

See Appendix B, Special Data Needed, for more detail.

Otherwise, we developed these costs using the same assets and data as disclosed in the AVR.

HOW THE RESULTS CHANGE WHEN THE ASSUMPTIONS CHANGE

The tables below show potential impacts if we decrease our PERS 1 retirement assumption as described in Appendix A, Assumptions We Made.

Potential Impact on Pension Liability			
(Dollars in Millions)	**Current**	**Increase**	**Total**
Today's Value of All Future Pensions	$38,687	($0.2)	$38,687
Earned Pensions Not Covered by Today's Assets	$4,208	($0.3)	$4,208

Potential Impact on Contribution Rates: (Effective 9/1/2011)			
2011-2013 State Budget	**PERS**	**SERS**	**PSERS**
Employee (Plan 2)	0.0000%	0.0000%	0.0000%
Employer:			
Current Annual Cost	0.0000%	0.0000%	0.0000%
Plan 1 Past Cost	(0.0003%)	(0.0003%)	(0.0003%)
Total	(0.0003%)	(0.0003%)	(0.0003%)

The potential decrease in the required actuarial contribution rate does not round to the minimum supplemental contribution rate of 0.01 percent. Therefore contribution rates would not be affected in the current biennium under this potential scenario. However, we will use the un-rounded rate decrease to measure the potential budget changes in future biennia, shown below.

Potential Budget Impacts			
(Dollars in Millions)	**2011-2013**	**2013-2015**	**25-Year**
General Fund-State	$0.0	$0.0	($0.1)
Total Employer	$0.0	($0.1)	($0.3)

The results shown above establish a high-end potential long-term cost estimate in PERS 1 for this proposal because they represent what would happen if every future rehired PERS 1 retiree, who would join a HERP under current provisions, changed their retirement behavior because of this proposal. If fewer than 100 percent of future PERS 1 retirees eligible for HERPs under current law changed their retirement behavior because of this proposal, then the savings to PERS 1 would be smaller in magnitude.

We did not attempt to measure potential savings to other state-administered plans because we believe the impact to those plans would be very small in comparison. Furthermore, we do not expect costs to change for non-PERS systems because the yearly work hour limits do not change for retirees in those systems.

We could also see a potential savings in PERS 2/3 from this proposal. However, we don’t currently assume changes in retirement behavior for PERS 2/3 members due to the presence of unrestricted post-retirement employment opportunities with institutions of higher education. This proposal eliminates those opportunities and theoretically removes any change in future PERS 2/3 retirement behavior that would have occurred as future PERS 1 retire-rehires are replaced with PERS 2/3 retire-rehires.

ACTUARY’S CERTIFICATION

The undersigned hereby certifies that:

1. The actuarial cost methods are appropriate for the purposes of this pricing exercise.
2. The actuarial assumptions used are appropriate for the purposes of this pricing exercise.
3. The data on which this draft fiscal note is based are sufficient and reliable for the purposes of this pricing exercise.
4. Use of another set of methods, assumptions, and data may also be reasonable, and might produce different results.
5. We prepared this draft fiscal note for the Select Committee on Pension Policy.
6. We prepared this draft fiscal note and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown on page one of this draft fiscal note.

While this draft fiscal note is meant to be complete, the undersigned is available to provide extra advice and explanations as needed.

Matthew M. Smith, FCA, EA, MAAA
State Actuary

APPENDIX A – ASSUMPTIONS WE MADE

To determine the potential cost magnitude in PERS 1 for this proposal, we assumed retirement rates for the affected population in PERS 1 would change in line with previous analysis we did on post-retirement employment for PERS 1 and TRS 1.

In our 2005 Post-Retirement Employment Program Report we identified the change in retirement behavior due to the presence of partially restricted post-retirement employment in PERS 1 and TRS 1. We found the presence of partially restricted post-retirement employment increased PERS 1 retirement rates for members age 62 and younger by an average of 2.6 percent. The retirement assumptions we used for the 2005 study appear below.

PERS 1 Retirement Assumption Changes, 2005 Study						
	Current		Pricing		Percent Increase	
Age	Male	Female	Male	Female	Male	Female
50	0.64	0.40	0.6621	0.4138	3.46%	3.46%
51	0.57	0.43	0.5887	0.4441	3.28%	3.28%
52	0.52	0.37	0.5362	0.3816	3.12%	3.12%
53	0.52	0.33	0.5367	0.3406	3.21%	3.21%
54	0.52	0.52	0.5355	0.5355	2.97%	2.97%
55	0.22	0.26	0.2268	0.2680	3.07%	3.07%
56	0.22	0.18	0.2266	0.1854	3.00%	3.00%
57	0.22	0.18	0.2258	0.1848	2.65%	2.65%
58	0.22	0.22	0.2253	0.2253	2.39%	2.39%
59	0.22	0.37	0.2244	0.3774	2.00%	2.00%
60	0.22	0.18	0.2240	0.1833	1.83%	1.83%
61	0.22	0.22	0.2239	0.2239	1.79%	1.79%
62	0.40	0.37	0.4065	0.3760	1.63%	1.63%
			Average Change		2.6%	2.6%

This proposal partially reverses the impact identified above for an assumed 4.4 percent of the affected PERs 1 population (See appendix B). We used our previous retire-rehire analysis to develop new retirement assumptions for this pricing. We *reduced* our current PERS 1 retirement assumptions by an average of 4.4% x 2.6% = 0.1%. We show our current PERS 1 retirement rates and the rates from this pricing below.

PERS 1 Retirement Assumption Changes, This Proposal						
	Current		Pricing		Percent Increase	
Age	Male	Female	Male	Female	Male	Female
47	0.50	0.60	0.4992	0.5991	(0.15%)	(0.15%)
48	0.60	0.45	0.5991	0.4493	(0.15%)	(0.15%)
49	0.55	0.40	0.5492	0.3994	(0.15%)	(0.15%)
50	0.55	0.35	0.5492	0.3495	(0.15%)	(0.15%)
51	0.45	0.35	0.4493	0.3495	(0.14%)	(0.14%)
52	0.45	0.35	0.4494	0.3495	(0.14%)	(0.14%)
53	0.45	0.31	0.4494	0.3096	(0.14%)	(0.14%)
54	0.45	0.48	0.4494	0.4794	(0.13%)	(0.13%)
55	0.22	0.23	0.2197	0.2297	(0.14%)	(0.14%)
56	0.18	0.18	0.1798	0.1798	(0.13%)	(0.13%)
57	0.18	0.18	0.1798	0.1798	(0.12%)	(0.12%)
58	0.18	0.17	0.1798	0.1698	(0.11%)	(0.11%)
59	0.22	0.33	0.2198	0.3297	(0.09%)	(0.09%)
60	0.15	0.17	0.1499	0.1699	(0.08%)	(0.08%)
61	0.23	0.21	0.2298	0.2098	(0.08%)	(0.08%)
62	0.33	0.29	0.3298	0.2898	(0.07%)	(0.07%)
			Average Change		(0.1%)	(0.1%)

Otherwise, we developed these costs using the same assumptions as disclosed in the AVR.

Please see our 2005 Post-Retirement Employment Program Report for a description of the data, assumptions, and methods used to develop the fiscal impact of the post-retirement employment program.

APPENDIX B – SPECIAL DATA NEEDED

We gathered data from the Department of Retirement Systems (DRS), the University of Washington (UW), Washington State University (WSU), and the Washington State Board for Community and Technical Colleges (SBCTC) to help us estimate a potential PERS 1 retirement rate change. The following table shows counts reported by these agencies about PERS 1 retire-rehires.

Source	PERS 1 Rehires	PERS 1 Rehires in HERPs
DRS	3,035	Unknown
UW	160	40
WSU	40	19
SBCTC	82	58

We relied on this data to estimate counts of PERS 1 retirees in HERPs employed by the State's remaining colleges and universities. Using this data, we estimate that 135 of the current 3,035 total PERS 1 retire-rehires, or about 4.4 percent, participate in HERPs. We used this percentage to calculate how much to change PERS 1 retirement assumptions to determine the potential cost savings in PERS 1 for this proposal.

See Appendix A for details on the assumption change.

GLOSSARY OF ACTUARIAL TERMS

Actuarial Accrued Liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions (i.e. interest rate, rate of salary increases, mortality, etc.).

Aggregate Funding Method: The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. The method does not produce an unfunded actuarial accrued liability. The normal cost is determined for the entire group rather than on an individual basis.

Entry Age Normal Cost Method (EANC): The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost.
- Amortization of the unfunded actuarial accrued liability.

The normal cost is determined on an individual basis, from a member's age at plan entry, and is designed to be a level percentage of pay throughout a member's career.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Projected Unit Credit (PUC) Liability: The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts that are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Unfunded PUC Liability: The excess, if any, of the Present Value of Benefits calculated under the PUC cost method over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Gov. Gregoire proposes healthcare, pension modernization

For Immediate Release: December 13, 2010

OLYMPIA – Gov. Chris Gregoire today proposed modernizing the state's health care and pension systems to reduce costs as part of her work to transform Washington's budget. If enacted, her reforms to the pension system alone could save more than $400 million during the 2011-2013 biennium.

"The proposals I've developed will make a significant difference in the budget shortfall we face today," Gregoire said. "Just as importantly, they will free the state to make better use of its resources for years to come."

Modernizing the state's pension system

Gregoire announced she will ask the Legislature to end the automatic annual pay increases now provided for those under the PERS and TRS 1 pension plans. While intended to protect against inflation, the increase itself is not linked to inflation, which in recent years has been low. The proposal would save $368 million during the 2011-2013 biennium, and would immediately cut the state's unfunded pension liability of $7 billion by nearly 60 percent. The Legislature would still have the authority to provide inflation-related increases, as it did prior to 1995.

"I realize these benefits are important to thousands of Washingtonians who spent their careers serving the public," Gregoire said. "But as we've asked all sectors of government to sacrifice, ending the automatic nature of these increases would save the state $2 billion through 2015, and $9 billion over the next 25 years."

Gregoire also proposed saving $2.2 billion over the next 25 years by ending early retirement incentives for future employees who choose to retire before the age of 65. Additionally, Gregoire will seek legislation to help equalize retirement benefits for college and university employees so they more closely match that of all state employees, as well as propose legislation to end retire-rehire exemptions that allow retirees to draw pension benefits as they earn a salary from a college or city. Ending the retire-rehire exemption was a favored idea by both Washingtonians who submitted ideas on the governor's budget website, as well as the Transforming Washington's Budget committee.

Controlling health care costs

Gregoire also announced actions to limit the overall increase in health care costs in Washington state to no more than five percent a year by 2014, while maintaining quality care for the 1.2 million low-income children and adults and 335,000 public employees, retirees and their families who rely on it. By holding health care inflation low, Gregoire expects all Washingtonians to save a combined $26 billion on health care over the next 10 years.

“In the past decade, the amount the state pays for health care each year has doubled to more than $5 billion,” Gregoire said. “Keeping up with that growth is nearly impossible. This fiscal year, we’ve already had to eliminate preventative dental care, eliminate medical coverage for 27,000 children through state insurance programs, and reduce personal care for long-term care clients. If we want to continue a meaningful level of care for our citizens in the future, we have to address health care inflation, which far exceeds economy-wide inflation.”

The governor will do this in part by ramping up strategies that have already proven to be successful, like her “generics first” prescription drug initiative and more monitoring of clients with a history of overusing high-cost services, such as emergency room services and prescription drugs.

Gregoire will also pursue legislation to consolidate a majority of the state’s health care purchasing into a single agency to ensure that cost-saving strategies are applied consistently across all state programs. It will also position the state to use its full purchasing power to get the most value out of tax-payer dollars.

Gregoire also announced an aggressive shift toward a system that pays based on the quality of outcomes instead of the number of office visits. Working in partnership with the federal Department of Health and Human Services, Gregoire is pushing Washington as a pilot state for this new model of health care.

“The promise of reform is a day when no one goes without health care coverage – but making that promise real will require us to drive down the costs of coverage,” Gregoire said. “Although we will employ multiple strategies to do that, our goal is simple. We want to contain health care inflation while delivering higher-quality care.”

REFORMING PENSIONS TO HOLD DOWN COSTS

Five months ago, Governor Gregoire asked a group of business, nonprofit and government leaders to help her transform Washington government. She posed eight questions to guide the committee's deliberations. With its advice and input from citizens across the state, the Governor recommends the following actions to reform the state pension system to hold down costs so we can invest those savings in essential services. Her proposals address the question "Are there more cost-effective, efficient ways to do the activity?"

Washington has been a national leader in designing and maintaining sustainable public pension plans. Current open retirement plans have had reasonable benefit levels and are fully funded. The older, more generous retirement plans were closed to new members in 1977, when the current plans were created. As many states struggle to address staggering pension liabilities, they are doing what Washington did in 1977: raising the retirement age, requiring more cost-sharing between members and employers, and limiting opportunities to inflate pensions with late career salary increases. Money spent on state pensions means less funding available for essential services such as education and public safety.

We continue to innovate. We were the first state to use hybrid defined contribution/defined benefit plans. Our State Investment Board has followed progressive investment policies, which has led to an 8 percent return for the past 20 years — among the top 10 percent of public pension plans over this time period.

While Washington is in an enviable position in some respects, we recognize that significant challenges lie ahead. The older closed plans are underfunded, and will fall further behind. Unless action is taken, underfunding will cause employer pension contribution rates to double in the 2011–13 biennium and remain high for the next 20 years. This will make it difficult to maintain the healthy funded status of the open plans.

Just like Washington did 33 years ago, when we closed the older plans and moved to less-generous, more-modern benefit plans, we must again make hard decisions. Governor Gregoire proposes the following actions to reduce future costs to employers and taxpayers while maintaining reasonable benefits for valued public employees and retirees.

Eliminate automatic benefit increases

In 1995, the Legislature passed an annual benefit increase for members and beneficiaries in public pension plans closed to new members since 1977. While intended to protect against inflation, the increase itself was not linked to inflation, which has been low. The Legislature anticipated the benefit could have a high cost, so it reserved the right to amend or repeal the benefit in the future.

The closed plans for teachers (TRS 1) and public employees (PERS 1) were identified by the State Actuary last year as the state's only unhealthy pension plans, with funded ratios between 70 and 75 percent, or an unfunded liability approaching $7 billion as of June 30, 2009. (The remaining plans had funding ratios that exceeded 116 percent.)

The Governor proposes to end future automatic benefit increases from the 1995 legislation, which would eliminate more than one-half of the unfunded liability in the closed plans. The Legislature, as was the case prior to 1995, could award cost-of-living increases at its discretion. The repeal will also reduce public employer payments by an estimated $9 billion over the next 25 years, with $2 billion of that reduction expected to be realized over the next two biennia. The Office of the State Actuary estimates that $4 billion of the $9 billion savings will be realized by local governments over this period. For the next two years, local governments will save $353 million and the state will save $368 million.

The Governor's proposal removes the annual increase amount only for members and beneficiaries whose monthly pensions exceed the minimum benefits provided in the plans. Retirees receiving the minimum benefit amounts won't be affected — their benefits will continue to be adjusted annually.

Modernize the public pensions

In 1977, state policymakers created new retirement benefits for public employees. While policymakers balanced the provision of benefits with affordability for employers and reasonableness for taxpayers, times and circumstances have changed. Since then, we have seen significant changes to retirement patterns and personal longevity, not to mention retirement options available to the public. At the same time, costs to provide public employees with no-risk pensions at ages far earlier than offered by Social Security are rising.

The Governor proposes to discontinue incentives to retire earlier than age 65 for new hires in Plans 2 and 3 for PERS, TRS and SERS. This modernization of the state's primary pension systems will slash the long-term cost of public pensions by an estimated $2.2 billion over 25 years for state and local governments, freeing scarce resources for other essential functions. (See chart on next page).

Reform higher education pensions

» Close the retire-rehire exception

In 2001, lawmakers expanded the opportunity for retirees from state-administered retirement systems to return to work while still receiving their monthly pension. This change allowed employers to use experienced retirees as a short-term solution to bridge a recruitment gap for long-term personnel, especially in the education field. In 2003, lawmakers added safeguards and limits on the number of hours retirees could work while still receiving their pension.

Still, an exception occurs when a retired public employee returns to work for an institution of higher education and participates in a separate retirement plan offered by the institution. Participation in the other retirement plan exempts the retiree from limits in the state-administered retirement plan. In this situation, the retiree can work and draw full retirement and salary.

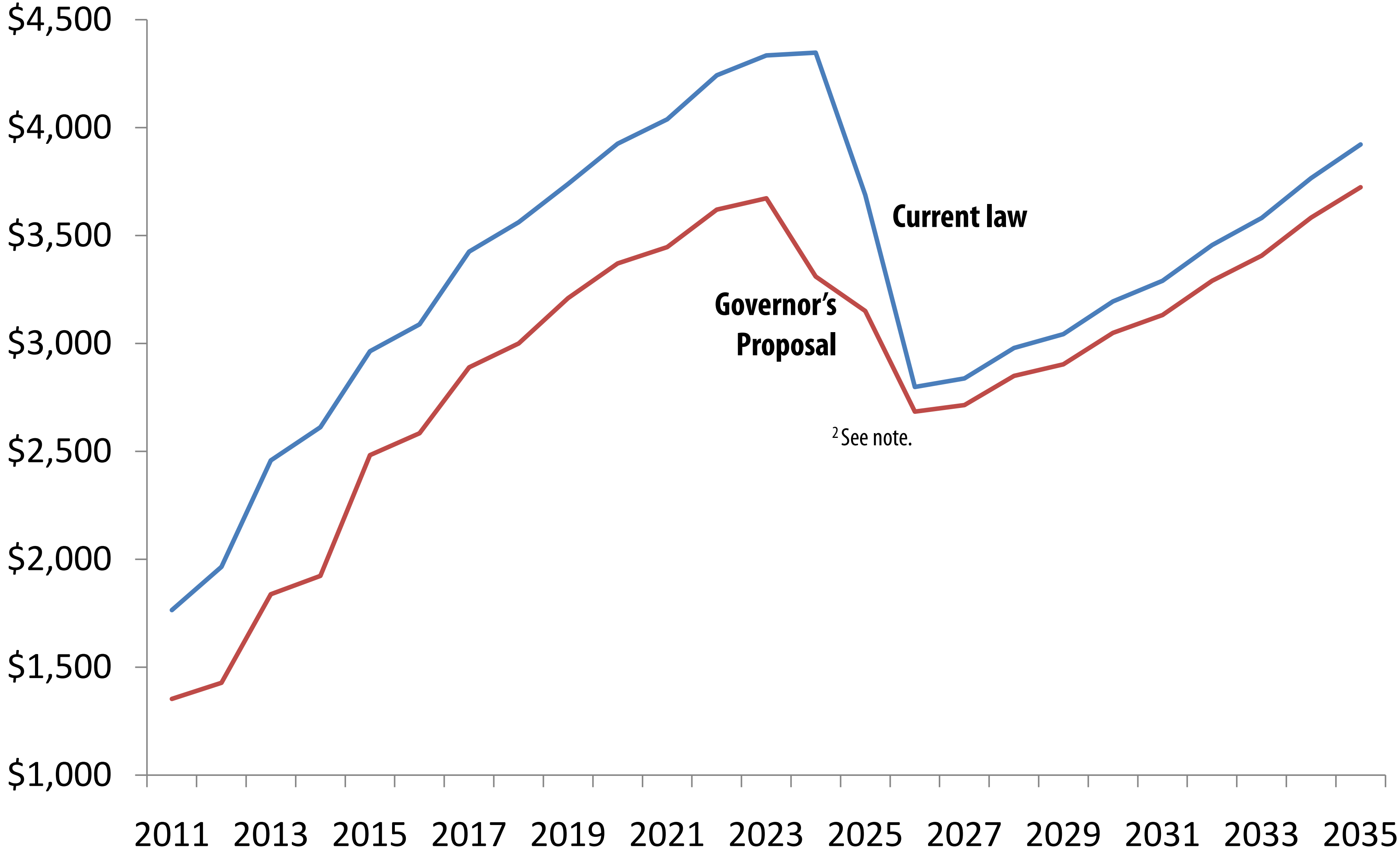
The Governor proposes to close this exception by disallowing retired employees from participating in these separate retirement plans. Restrictions will also be imposed to not allow individuals to draw full-time retirement benefits as well as a salary.

» Align state contributions

The Governor proposes to align state support for higher education retirement plans more closely with that provided for other state employees. These plans now provide both a defined contribution amount and a supplemental guaranteed minimum benefit similar to the formula used in the old state pension systems that closed in 1977. As an alternative, new higher education employees would be given the option to participate in one of the state's hybrid pension plans.

The Governor's proposal will cap the state's contribution to these plans at 6 percent. The higher education institutions could contribute more. For 2011–13, these higher education changes save the state $57 million dollars, and all pensions reform saves $425 million.

Reforming State Contributions to our Pension System: Savings of up to $11.3 billion[1] over 25 years (in millions)



OFFICE OF THE STATE ACTUARY
DECEMBER 2010

[1] The State Actuary estimates savings of $10 billion to $11.3 billion.
[2] Unfunded liability paid off in 2024.

H-0266.1

HOUSE BILL 1022

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Carlyle, Van De Wege, Appleton, Finn, Miloscia, Probst, Upthegrove, Kenney, Blake, Takko, Rolfes, Liias, Fitzgibbon, and Clibborn

Prefiled 12/13/10.

AN ACT Relating to the postretirement employment of higher education employees; and amending RCW 28B.10.400 and 41.40.037.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 28B.10.400 and 2010 c 21 s 1 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, and the state board for community and technical colleges are, subject to subsection (2) of this section, authorized and empowered:

((~~(1)~~)) (a) To assist the faculties and such other employees as any such board may designate in the purchase of old age annuities or retirement income plans under such rules as any such board may prescribe. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;

((~~(2)~~)) (b) To provide, under such rules and regulations as any such board may prescribe for the faculty members or other employees under its supervision, for the retirement of any such faculty member or other employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by (c) of this subsection ((~~(3) of this section~~)) and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate;

((~~(3)~~)) (c) To pay to any such retired person or to his or her designated beneficiary(s), each year after his or her retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by the retired person or the retired person's designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his or her highest two consecutive years of full time service under an annuity or retirement income plan established pursuant to (a) of this subsection ((~~(1) of this section~~)) at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or the retired person's designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be ((~~(a)~~)) (i) the surviving spouse of the retiree; or, ((~~(b)~~)) (ii) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education;

((~~(4)~~)) <u>(2)</u> The higher education coordinating board is also authorized and empowered as described in this section, subject to the following: The board shall only offer participation in a purchased annuity or retirement income plan authorized under this section to employees who have previously contributed premiums to a similar qualified plan, and the board is prohibited from offering or funding such a plan authorized under this section for the benefit of any retiree who is receiving or accruing a retirement allowance from a public employees' retirement system under Title 41 RCW or chapter 43.43 RCW.

<u>(3) Prior to the offer of participation in a purchased annuity or retirement income plan made upon rehiring any former employee, the president of each institution of higher education, or the chief executive officer of the state board for community and technical colleges or the higher education coordinating board shall submit a signed affidavit to their respective boards, the higher education and coordinating board, and the department of retirement systems that the prospective employee is returning after a break from employment or any other compensated arrangement with the employer of no less than nine months, and that at no time before the prior termination from employment was any oral or written agreement reached with any officer of the institution to return to employment following a break in employment.</u>

Sec. 2. RCW 41.40.037 and 2007 c 50 s 5 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer<u>, other than the employer from which the retiree was last retired from,</u> sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

<u>(c)(i) If a retiree enters employment with the same employer from which the retiree last retired from sooner than nine calendar months after his or her accrual date, it is presumed that the retiree did not separate from service and was never eligible for retirement benefits.</u>

<u>(ii) Upon discovery of the reemployment of a retiree under (c)(i) of this subsection, the department shall immediately commence collection of any benefits paid during the period as overpayments and investigate the circumstances of the separation from service and reemployment.</u>

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer<u>, other than the employer from which the retiree was last retired from,</u> at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer<u>, other than the employer from which the retiree was last retired from,</u> at least three calendar months after his or her accrual date and:

(i) Is hired pursuant to a written policy into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the select committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) <u>For purposes of this section, employment includes positions covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.</u>

<u>(6)</u> The legislature reserves the right to amend or repeal this

section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

--- END ---

Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

By Representative Bailey

On page 1, line 14, after "faculties and" strike "such other" and insert "((~~such other~~))senior academic administrator"

On page 2, line 5, after "members or" strike "other" and insert "((~~other~~))senior academic administrator"

On page 2, line 6, after "member or" strike "other" and insert "((~~other~~))senior academic administrator"

On page 2, line 9, after "member or" strike "such other" and insert "((~~such other~~))senior academic administrator"

On page 3, after line 21, insert the following:

"(5) For purposes of this section, "senior academic administrator" means institution presidents; vice presidents; deans, directors, and chairs; and executive heads of major administrative or academic divisions who hold concurrent faculty appointment with rank."

EFFECT: Limits the offering of the higher education retirement plan to faculty and senior academic administrator employees, rather than to faculty and other employees as designated by the boards of state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges.

--- END ---

Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

By Representative Bailey

On page 2, line 15, after "retired person" insert "first employed in a position covered by an old age annuities or retirement income plans authorized by this section prior to the effective date of this act"

EFFECT: Closes the Higher Education Retirement Plan supplemental benefit to persons first employed in a position covered by an old age annuities or retirement income plans authorized by this section after the effective date of the act.

--- END ---

Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

On page 3, after line 21, insert the following:

Sec. 2. RCW 28B.10.423 and 1973 1st ex.s. c 149 s 8 are each amended to read as follows:

It is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and *83.20.030 will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives and the ((~~public pension commission~~))select committee on pension policy, and joint contribution rates will be adjusted if necessary to accomplish this intent.

Renumber the remaining section consecutively and correct the title.

EFFECT: Replaces an obsolete reference to the Public Pension Commission with the Select Committee on Pension Policy in a section providing for periodic review of the Higher Education Retirement Plan.

--- END ---

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Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

By Representative Bailey

On page 3, after line 21, insert the following:

"**Sec. 2.** RCW 41.40.037 and 2007 c 50 s 5 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired pursuant to a written policy into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the select committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) When a retiree is reemployed by the same employer from which he or she retired fewer than three calendar months after his or her accrual date, the retiree is presumed to have not separated from service.

(5) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(6) For purposes of this section, "employment" or "reemployment" includes positions covered by the old age annuities or retirement income plans authorized by 28B.10.400.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension."

Renumber the remaining section consecutively and correct the title.

EFFECT: Creates a presumption that a member of the Public Employees' Retirement System (PERS) that is reemployed by the same employer from which he or she retired fewer than three calendar months after retirement did not separate from service, and as a consequence never effectively retired. Applies the PERS postretirement employment rules to individuals employed in positions covered by the Higher Education Retirement Plan.

--- END ---

Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

By Representative Bailey

On page 3, after line 21, insert the following:

"(5) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, and the state board for community and technical colleges are required to report to the department of retirement systems, in a form determined by the director of the department of retirement systems, on the participation of employees in purchased annuity or retirement income plans authorized under this section. This reporting shall be done on a monthly basis, and shall include at least: the identity, age, and years of enrollment of each participant, the date of initial enrollment, the salary and contributions made by employers and employees, the accumulated contributions of each participant, and supplemental payments made to retirees and beneficiaries."

EFFECT: Requires the state higher education institutions to report to the Department of Retirement Systems on the Higher Education Retirement Plans that each of them operates. The reporting shall be done monthly, and include information on the members, retirees, contributions, benefits, and salaries.

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Amendment to SCPP Draft titled: Retire-Rehire: Higher Education, Bill Draft Revised December 1, 2010

By Representative Bailey

On page 3, after line 21, insert the following:

"(5) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, and the state board for community and technical colleges are required to annually report to the office of the state actuary all information requested by the state actuary to enable for the office to conduct an actuarial valuation of the purchased annuity or retirement income plans authorized under this section."

EFFECT: Requires state higher education institutions to report to the Office of the State Actuary all information requested by the State Actuary to enable the office to conduct an actuarial valuation of the Higher Education Retirement Plans.

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