Retire-Rehire

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 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

- Rehiring retirees is often controversial, particularly in a poor economy.
- Supporters of this exception feel it is 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. This ability has existed in substantially similar form since at least 1979. Post-retirement employment rules have been revised extensively over the past ten years, while higher education retirement policy has remained largely untouched.
- The SCPP has weighed in on this issue in the past. The SCPP sponsored SHB 1545 (2010 c 21), which granted the HECB the ability to offer HERPs, provided the employee who is offered the HERP has previously paid into a similar plan, and is not receiving or accruing benefits in a DRS-administered plan.
- Precise data on who is actually utilizing the inconsistency is not yet available. However, a maximum of 716 PERS retirees are situated such that they could potentially be utilizing a HERP without a yearly restriction on hours.

Next Steps

As a threshold issue, the Committee may wish to decide if the practice should continue as currently structured and administered.

- If so, the committee may choose to do nothing at this time.
- If not, the committee may choose to direct staff to study options. Potential options could include:
  - Aligning higher education retirement policy more closely with policies for DRS-administered systems.
  - Revising who can be offered a HERP, or the conditions under which a HERP can be offered.
  - Revising procedural requirements.

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In Brief

Issue

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 Higher Education Retirement Plan (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 the higher education exception to the retire-rehire rules. The SCPP has studied other aspects of retire-rehire rules in several previous years.

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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 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).[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 websites of the SCPP and OSA.

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

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

Retirees Returning To Work In A Position Covered By A DRS-Administered Plan

Retirees returning to work in a position covered by a plan that is not administered by DRS are subject to fewer 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 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 30 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 enhanced early retirement factors are prohibited from utilizing the retire-rehire provisions until reaching age 65.[6]

If the retiree goes to work in the private sector, then these 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 1500 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 benefits. As noted above, fewer 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 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 bill, 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.

How Many People?

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

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.

- A total of 1,359 members retired from one of the DRS-administered systems and went back to work at a higher education institution.
- PERS 1 retirees: 548 retired from a public sector position, then went to work at a higher education institution.
  - Of these, 398 retired from a higher education position and went back to work at a higher education institution.
  - Of these, 349 went back to work at the same institution from which he or she retired.
- PERS 2/3 retirees: 168 retired from a public sector position, then went to work at a higher education institution.
  - Of these, 130 retired from a higher education position and went back to work at a higher education institution.
  - Of these, 124 went back to work at the same institution from which he or she retired.

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.

Policy Questions

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

Some policymakers 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 30 years of service. Even if the member serves beyond that time, they will earn a maximum of 30 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 policymakers 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.

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.

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 are well within the jurisdiction of the legislature. Some policymakers 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 policymakers may feel that inconsistencies are necessary in 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 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.

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

As noted above, current law requires a minimum separation of service of 30 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 30-day separation of service, and that the position was never advertised.

Other states

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.

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

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.*

Conclusion

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.

Next Steps

As a threshold issue, the committee may wish to decide if the practice should continue as currently structured and administered.

- If so, the committee may choose to do nothing at this time.
- If not, the committee may choose to direct staff to study options. Potential options could include:
  - Aligning higher education retirement policy more closely with policies for DRS-administered systems.
  - Revising who can be offered a HERP, or the conditions under which a HERP can be offered.
  - Revising procedural requirements.

Attachments

1. Retired, then rehired: How college workers use loophole to boost pay. Seattle Times, June 26, 2010.

   http://seattletimes.nwsource.com/html/localnews/2012217904_retirerehire27m.html

2. DRS Employer Handbook, Chapter 5.

   http://www.drs.wa.gov/employer/EmployerHandbook/chpt5/higherEd_options.htm

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The Seattle Times

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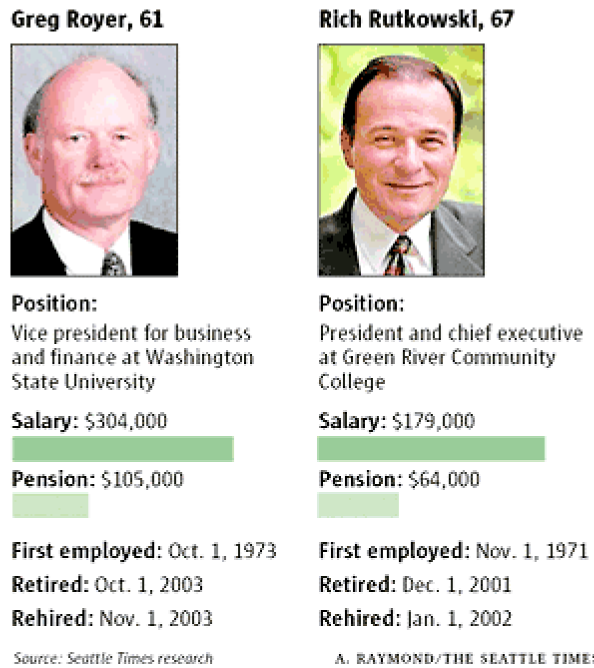
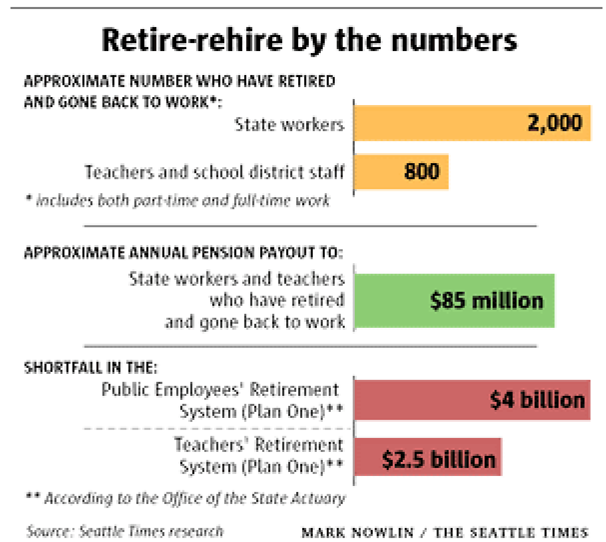
Retired, then rehired: How college workers use loophole to boost pay

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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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.

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