Early Retirement Factors (Retire-Rehire)

Issue

Should the SCPP revise the post-retirement (retire-rehire) rules to allow members who retire under the 2008 Early Retirement Factors (ERFs) to return to work before age 65?

Background

Stakeholders have asked[1] the SCPP to consider this change to the retire-rehire rules. According to stakeholders, there is shortage of substitute teachers, and this shortage could be at least partly addressed by a change to the retire-rehire rules.

Currently, members who retire under the 2008 ERFs are restricted from utilizing the retire-rehire provisions until they reach age 65.

Retire-Rehire, Generally

State law does not prohibit a retiree from returning to work. Instead, state law limits whether or not a retiree may return to work **and continue receiving pension checks at the same time**.

Specifically, if the retiree goes to work in the private sector there is no limit on that retiree's benefits. If the retiree returns to work in most state or local government positions, the retiree's pension benefits will be suspended after the member works more than 867 hours per year.

Early Retirement, Generally

The normal retirement age for members in the Plans 2/3 is age 65. Members can retire early at age 55, as long as they meet the minimum service requirements of twenty years in Plan 2 or ten years in Plan 3.

Retirees receive benefits for the remainder of their lifetime.[2] When a member retires early, the benefits are paid for a longer time. On its own, this creates a cost to the retirement system. However, statute provides for adjustments to members' benefits to help offset the cost.

[1] See the Correspondence Log in the meeting materials for documentation.
[2] And the lifetime of their qualified survivor, when applicable.

The base adjustment is a full actuarial reduction.[3] This means that the member's pension is actuarially reduced for each year the member retires prior to reaching age 65.

In other words, if experience matches the actuarial assumptions, a full actuarial reduction takes the same expected total amount of benefits, and stretches that total over a longer period of time by reducing the monthly benefit amount.

Subsidized Early Retirement (30 Years Of Service)

Members who retire before age 65 with at least 30 years of service qualify for a smaller reduction in their benefits. Specifically, their pensions are still reduced, but the reduction is less than a full actuarial reduction.

This is considered a subsidized form of early retirement because the plan absorbs the difference between the ERF and the increased cost from paying benefits over a longer period of time.

Statute provides three different sets of alternate early retirement provisions: 2000 ERFs, 2008 ERFs, and 2012 ERFs. These provisions differ in pension reductions, retire-rehire restrictions, and eligibility.

Early Retirement Factors

2000 ERFs

In 2000, the Legislature passed ESSB 6530 (2000 c 247). This bill created PERS 3 and established new ERFs.[4]

Under the 2000 ERFs, eligible members may retire and receive a pension reduced by 3 percent for each year the member retires prior to attaining age 65.

Members retiring under these ERFs are **not** prohibited from utilizing the retire-rehire provisions.

2008 ERFs

In 2007, the Legislature passed EHB 2391 (2007 c 491). This bill repealed gain sharing for members of Plans 1 and 3 and established new ERFs as replacement benefits.[5] Even though gain sharing (and its subsequent repeal) did not apply to members of the Plans 2, the new ERFs did.

The new ERFs were also enacted with a proviso that the ERFs were not a contractual right until there was legal certainty with regard to the gain sharing repeal. The

[3]See e.g. 1977 ex.s. c 293.

[4]Please see the bill for a complete list of provisions and effective dates. Most provisions effective in 2002, but the new ERFs became effective Sept 1, 2000.

[5]Please see the bill for a complete list of provisions and effective dates. The provisions of this bill became effective for PERS on July 1, 2008, and September 1, 2008, for TRS and SERS.

certainty of that repeal was provided in 2014, when the court decided *Washington Education Association v. DRS.*[6] (sometimes called "WEA II" to contrast it with the identically-titled UCOLA case).

Under the 2008 ERFs, eligible members may retire with unreduced pensions beginning at age 62. Members retiring between ages 55 and 62 have their pension reduced by a specified percentage that is less than the reduction provided under the 2000 ERFs (see the table below for precise reduction amounts).

The 2008 ERFs have the smallest reduction in benefits. However, members retiring early under these ERFs are prohibited from utilizing the retire-rehire provisions until reaching age 65.

2012 ERFs

In 2012, the Legislature passed 2ESB 6378 (2012 c 7). This bill prospectively repealed the 2000 and 2008 ERFs and replaced them with new ERFs for anyone hired on or after May 1, 2013.[7]

The 2012 ERFs include a 5 percent reduction for each year of early retirement prior to age 65.

Members retiring under these ERFs are **not** prohibited from utilizing the retire-rehire provisions.

Eligibility for ERFs and Retire-Rehire			
Provision	**2000 ERFs**	**2008 ERFs**	**2012 ERFs**
Hired prior to May 1, 2013	Y	Y	N
Hired on or after May 1, 2013	N	N	Y
Can use retire-rehire before age 65	Y	N	Y

[6] 332 P.3d 428 (2014).
[7] Please see the bill for a complete list of provisions and effective dates. Most provisions effective in 2002, but the new ERFs became effective July 10, 2012.

Reduction To Benefits				
Age	**Full Actuarial Reduction**	**2000 ERFs**	**2008 ERFs**	**2012 ERFs**
64	10%	3%	**0%**	5%
63	19%	6%	**0%**	10%
62	27%	9%	**0%**	15%
61	34%	12%	**2%**	20%
60	41%	15%	**5%**	25%
59	46%	18%	**8%**	30%
58	51%	21%	**11%**	35%
57	56%	24%	**14%**	40%
56	60%	27%	**17%**	45%
55	64%	30%	**20%**	50%

**Factors are rounded to the nearest percent. For more details, see the DRS document "Thinking About Retiring Early?"*

Early Retirements Since July 1, 2008		
ERF		**Count**
Full Actuarial Reduction		7,891
2000 ERFs		228
2008 ERFs	**Total**	5,024
	Under age 65	3,542
	Over age 65	1,482
2012 ERFs		N/A

**All plans as of November 3, 2014. Source: Department of Retirement Systems*

Hypothetical ERF Examples

The following illustration assumes that an employee retires with 30 years of service and an average final salary of $50,000 per year.

Hypothetical Early Retirement At Age 62				
	Yearly	Benefit	ERF Reduction	Eligible Before Age
2000 ERFs	$30,000	$27,300	9%	Y
2008 ERFs	$30,000	$30,000	0%	N
2012 ERFs	$30,000	$25,500	15%	Y

Hypothetical Early Retirement At Age 60				
	Yearly	Benefit	ERF Reduction	Eligible Before Age
2000 ERFs	$30,000	$25,500	15%	Y
2008 ERFs	$30,000	$28,500	5%	N
2012 ERFs	$30,000	$22,500	25%	Y

Hypothetical Early Retirement At Age 55				
	Yearly	Benefit	ERF Reduction	Eligible Before Age
2000 ERFs	$30,000	$21,000	30%	Y
2008 ERFs	$30,000	$24,000	20%	N
2012 ERFs	$30,000	$15,000	50%	Y

Administrative Process

According to DRS, retiring members are notified of the restriction at several points, including mandatory forms, plan handbooks, and presentations at retirement seminars. For example, retiring members are required to complete a form that includes a check box for which ERF the member wants. The check box contains an explanation of the restriction (see **Attachment**).

Policy Analysis

The SCPP adopted goals for Washington State public pensions include the following goals.

> *Goal 2: To manage the state retirement systems in such a way as to create stability, competitiveness, and adaptability in Washington's public pension plans, with responsiveness to human resource policies for recruiting and retaining a quality public workforce.*

> *Goal 3: To establish a normal retirement age for members currently in the Plans 2/3 of PERS, SERS, and TRS that balances employer and employee needs, affordability, flexibility, and the value of the retirement benefit over time.*

What those overall goals in mind, the SCPP may want to consider consistency between the retirement plans, impacts to recruitment and retention, and overlap with education and human resource policy.

Consistency Between Retiree Cohorts

The Legislature has expressed a general goal of providing similar benefits whenever possible.[8] However, exceptions have been made when the Legislature felt it necessary (e.g. earlier retirement ages in the public safety plans).

The retire-rehire policy for the 2008 ERFs is an exception to the general policy that retire-rehire is available for early retirees. It is not clear from the written record why a different retire-rehire policy was established for the 2008 ERFs only, and there are many potential ways that policy makers and stakeholders could view the issue.

For example, some policy makers may feel that retire-rehire benefits should be consistent for all retiree cohorts and that this exception is unwarranted. These policy makers may then wish to consider whether or not consistency should be restored. Of course, consistency could go both ways, in that it could mean that everyone or no one should have access to the retire-rehire provisions.

Other policy makers may feel that this exception is warranted as a tradeoff. Since the creation of the 2008 ERFs, the main benefit to choosing the 2000 ERFs has been the ability to utilize retire-rehire provisions before age 65. Thus, the exception is providing members with a choice:

- ❖ Receive larger monthly benefits than they would otherwise receive; or
- ❖ Utilize retire-rehire provisions before age 65.

If, for example, the restriction on the 2008 ERFs were removed, then the 228 retirees since 2008 who have chosen a lower monthly benefit under the 2000 ERFs would be receiving no tradeoff for those smaller monthly benefits.

Still others may feel that a limited exception to the exception is warranted. In other words, most early retirees can use retire-rehire before age 65. The exception is for early retirees under the 2008 ERFs. Some may feel that this exception for the 2008 ERFs should be lifted, for example, for some cases or job classes to address specific workforce needs (like a shortage of substitute teachers).

Recruitment/Retention

Retire-rehire could arguably be considered either a recruitment or retention tool since it allows public entities to recruit skilled and experienced employees, but only **after** retirement. As with benefit consistency, there are many potential ways that policy makers and stakeholders could view the issue.

For example, some policy makers may feel that employers should be allowed to recruit among retirees based on workforce needs, regardless of what ERF the retiree chose.

[8] RCW 41.50.005

Other policy makers may feel that this is an early retirement issue, rather than a retire-rehire issue. The nature of a defined benefit plan rewards longevity, up to a point. When members can receive the same, or very similar benefits, at an earlier age, they may feel compelled to retire early. This may result in employers having to enact special policies to retain experienced personnel or recruit them back after retirement via retire-rehire.

Still other policy makers may be concerned with the public perception of rehiring retirees in general. In the last few years alone, the SCPP has been briefed on several stories in the media that view retire-rehire poorly or have made allegations of abuse.

Overlap With Education Policy

While the pension policy questions above are universal to all of Washington's retirement plans (and fully within the SCPP's purview), the issue presented by stakeholders also encompasses education and human resource policies.

With that in mind, the SCPP may want to consider coordinating with other entities throughout the next interim to explore the following questions.

- Is substitute teacher shortage a statewide issue?

  Staff has been unable to locate data on this issue. Determining which districts have a shortage of substitutes (and whether or not the shortage is statewide) would require a district-by-district survey.

  For reference, staff contacted DRS, the Office of the Superintendent of Public Instruction, the Professional Educator Standards Board for Washington, and the Washington Education Association.

- Are other groups of employees similarly situated to substitute teachers?

  Given the nature of their positions, substitute teachers are fairly unique in the workforce. That said, there may be other employee groups that are similarly situated enough that an easing of retire-rehire restrictions may help them address shortages or other personnel issues.

- Are there ways of addressing substitute teacher shortage outside of the pension system?

  Even if data shows that retire-rehire provisions are directly related to a shortage, there may be other options for addressing the shortage within education or human resource policy.

- What effect, if any, will *McCleary* or I-1351 have on substitute teachers?

  Both *McCleary* and I-1351 will have direct impacts on teachers and education generally, but the full impacts are not yet settled.

Committee Activity

Following the October 21, 2014, SCPP meeting, the Executive Committee scheduled this work session.

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