

2008 Early Retirement Factors Retire-Rehire

Executive Summary

Should recipients of the 2008 Early Retirement Factors (ERF) continue to be prohibited from all non-federal public service employment in this state prior to the retiree reaching age 65?

Background

In April, Department of Retirement Services (DRS) Director Guerin wrote to the Select Committee on Pension Policy (SCPP) asking for help clarifying the statute that defines the prohibition.

Though many exceptions apply, most retirees can return to work in a position that is normally eligible for state retirement benefits for up to 867 hours per year without a reduction in benefits. However, 2008 ERF retirees are prohibited from returning to work for any hours prior to reaching age 65 if the job they take is:

- ❖ Eligible for state benefits.
- ❖ A private sector job on contract with a public agency.
- ❖ Short, or one-time jobs public sector jobs like being a judge at a county fair.

Highlights

- ❖ The bill draft would likely make the rules easier to administer and reduce the likelihood of members repaying overpayments.
 - Retire-rehire rules are complex, and changes have created inconsistencies across positions and plans.
 - DRS reports that confusion over different and changing rules has created outcomes (e.g., repayments) that are dissatisfactory for some retirees.
- ❖ The Legislature has adopted the goal of providing members with the same benefits unless a difference is warranted. The bill draft would increase consistency in some ways and decrease it in others.
 - Removing the prohibition would make the retire-rehire portion of the rules more closely aligned for all retirees.
 - However, this bill draft could create an inconsistency in benefits with those who chose the 2000 ERFs.
 - ◇ For example, two otherwise identical retirees could return to the same job with the same hours, but one retiree will be receiving pension checks that are in the range of 10 percent smaller than the other.
- ❖ The original request from DRS was to clarify the current retire-rehire rules. Doing so does not necessarily require changing the law. One possible answer to the Director's question is yes, the Legislature did intend the law to be interpreted in the way that it has been.

- ❖ The bill draft would expand access to retire-rehire. This issue has been controversial over the years, and policy makers may be on either side of it.
 - For example, expansion may risk new abuses (whether real, or perceived).
 - Alternatively, expansion could help manage certain workforce shortages.
- ❖ Not all 2008 ERF recipients are similarly situated, but the bill draft applies to all.
 - Some retirees may return for a few hours here and there (such as the county fair judge example). Others may be highly compensated employees returning to highly compensated positions (or the position they retired from).
- ❖ The bill draft would likely have a small cost.
 - The Office of the State Actuary's actuarial valuations assume all eligible retirees take the 2008 ERFs. However, in practice a small group continues to choose the 2000 ERFs. Each one that chooses the 2000 ERFs is a savings to the plan.
 - If the bill draft encourages fewer eligible retirees to take the 2000 ERFs, the plan loses savings.
- ❖ The 2008 ERFs are already the most lucrative retirement option, and the bill draft would improve them more. Other approaches may address the same concern(s) as the bill draft.

Committee Activity

The Committee held an educational session on retire-rehire rules at the May meeting, a work session in June, and then a public hearing on the bill draft in July. While a motion to sponsor the proposed bill draft failed at the July meeting, it was raised again at the September meeting and passed.

Recommendation to the 2023 Legislature

Sponsor a bill draft to allow 2008 ERF retirees under age 65 to return to work in non-federal public service for up to 867 hours per year. This would include not just eligible positions, but also private sector employment on contract with a public agency.

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