F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	01/26/11		
SPONSOR	Stewart	**LAST UPDATED**	02/14/11	**HB**	57
SHORT TITLE	Public Employees Returning to Work			**SB**	
				ANALYST	Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
		$30.0		$30.0	Nonrecurring	PERA
Employers		Minimal*				All sources

(Parenthesis ( ) Indicate Expenditure Decreases)

*The impact to employers is unknown, but most likely very minimal or no fiscal impact.

Relates to House Bill 129 and conflicts with House Bill 142, Senate Bill 242, and Senate Bill 324 (update)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)
Corrections Department (CD)
Department of Transportation (DOT)
Administrative Office of the Courts

SUMMARY

Synopsis of Bill

House Bill 57 amends the Public Employees Retirement Act return-to-work (RTW) provisions to allow all retirees entering the program after July 1, 2011, to earn up to $15,000 without any waiting period, without becoming members and paying contributions, and without suspending their pensions. After $15,000, the bill requires the RTW employee suspend his or her pension and once again become a PERA member. Service credit is earned, although the formula provided to recalculate the pension for any subsequent retirement requires the RTW member accrue at least three additional years of service credit. The new pension would not be less than the original. HB57 requires the RTW PERA member and employer make the related contributions, except that the rates are not fixed but may be adjusted for the full actuarial value as determined by PERA. RTW employees “grandfathered” under Laws 2010, Chapter 18, remain unaffected by this bill.

FISCAL IMPLICATIONS

PERA notes that it will incur additional operating costs as follows:

> PERA will incur operating costs related to printing, postage and dissemination of information associated with implementing the earnings limit threshold, changes to procedures and employer reporting. In addition, PERA will require increased staff utilization in order to review reporting records and to suspend pensions under the new earnings limit. Changes in qualification requirements and reporting will require revisions to PERA's pension administration system ("RIO"), and PERA will be required to seek a BAR to cover the costs of these system changes.

PERA did not quantify the impact, but has noted a $25 thousand fiscal impact in prior analyses for pension changes to RIO. In addition, the cost of printing and communicating the information could be reasonably estimated to fall under $5 thousand. It is not anticipated that this bill would require additional FTE, so no fiscal impact is associated with personnel costs. PERA notes that it would seek a budget adjustment request to cover any costs incurred due to HB 57.

Employers could potentially save money on the part-time or low-paying positions if regular employees were displaced and the positions were filled by the new, under-$15,000 RTW employees. The number of RTW employees who would supplant regular employees, for which the employer is making contributions, is unknown. Also unknown is the number of positions that would qualify under the $15,000 cap.

The CD discussion raises the possibility that the bill would incentivize hiring some positions that would otherwise not be filled. Each employee hired under this scenario would cost the employer up to $15,000. Again, the fiscal impact is indeterminate.

PERA appears to assume that any fiscal savings accruing to employers would minimal in terms of lost contributions to PERA.

SIGNIFICANT ISSUES

According to PERA, prior to RTW legislation implemented in 2004, PERA retires had an option of returning to work for a PERA affiliate and earning up to $15,000 each calendar year. Because of the low earning limit, retirees were allowed to supplement their retirement income and were not viewed as "double dippers."

The 2004 RTW legislation allowed retirees to return to work without regard to a salary cap. Seeing the unintended consequence of the growth in "double-dippers," the Legislature passed stricter provisions on the PERA RTW program, effective June 30, 2010. One of the unintended consequences of this legislation was that it did not reprise the $15,000 cap, leaving no provisions for PERA retirees contemplating seasonal, temporary or part-time work.

PERA notes this affected many PERA retirees, including:

- Election workers;
- School crossing guards;
- Municipal summer program workers;
- Senior center transportation drivers and aides;

- Court bailiffs and security guards to cover vacancies until filled; and
- Other retirees who are employed for a limited time at usually low pay to help the areas described.

PERA states HB57 would rectify this deficiency by returning the PERA Act to its pre-2004 status with the $15,000 cap. PERA concludes that, “Historically, a $15,000 per year earnings cap addressed these hiring concerns without an actuarial impact to the PERA Fund and without singling out specific employee groups.”

The following table lists the average pension statistics for regular retirees by PERA plan:

Plan	**Average Benefit as of June 30, 2010**	**Average Age at Retirement**
State General	$26,060	67.86
State Police/Corrections	$29,331	61.38
Municipal General	$23,800	66.95
Municipal Police	$34,496	57.69
Municipal Fire	$34,589	59.74
Average PERA Retiree	$26,772	65.84

PERA points out two additional important issues:

HB 57 does not address those double-dippers grandfathered in under the law in effect at the time of their return to work on or before June 30, 2010 from continuing to receive both a pension and a salary.

HB 57 does not address the practice of utilizing third-party arrangements (temporary employment agencies) and independent contracts to circumvent the ability to for public affiliated employers to “rehire” PERA retirees.

PERFORMANCE IMPLICATIONS

Allowing retirees to perform certain functions such as crossing guards and election workers, would improve the pool of employees to be hired for these critical positions.

DOT, AOC, and CD also note the bill would improve their ability to bring back valuable experience and critical skills.

ADMINISTRATIVE IMPLICATIONS

In the short term, PERA anticipates employer reporting confusion regarding post-retirement employment. PERA's public relations staff will also have to provide specific training to Human Resources and Payroll department employees on reporting reemployed retirees.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 57 relates to House Bill 129, which requires RTW employees employed by an educational retirement system affiliate pay the employee contribution rather than the employer.

House Bill 57 conflicts with House Bill 142, which would add specific exemptions to the RTW provisions for under-sheriff or executive secretary working for an exempt sheriff; a temporary precinct board member for elections; a part-time crossing guard. Salaries are not capped.

House Bill 57 conflicts with Senate Bill 242 that would provide a specific exemption for precinct board members for elections. The salary is not capped.

House Bill 57 conflicts with Senate Bill 324, which would provide a specific exemption for retired state police officers to return to work (RTW) with PERA-affiliated employers as undersheriffs or deputy sheriffs without suspending their pensions. The salary is not capped.

OTHER SUBSTANTIVE ISSUES

AOC, DOT and CD suggest that allowing retirees to return to work without suspending their pensions under a salary cap might bring valuable experience and critical skills to their respective agencies. However, AOC suggests that the salary cap would need to be raised to really be useful to the courts:

> The Judiciary has a longstanding need of improved courthouse security. Many courts do not have a magnetomer at the court entrance, much less security staff to oversee the device and provide security services throughout the rest of the courthouse. Retired law enforcement officers provide ideal candidates for such positions with the court, but would probably be unwilling to sacrifice their pension for a position that pays roughly $30,000 a year. If the $15,000 earnings limit was raised to $25,000, it is possible that retired law enforcement officers would find such court positions of interest as the salary would be supplemented by their pension for the bulk of their annual employment. At the higher salary, such employment would be limited to the earnings threshold without making it impractical to employ retired law enforcement officers, as would be the case with a $15,000 earnings limit.

PERA noted in prior testimony that impact to pension solvency due to the lack of contributions coming into the pension plans from a class of employees making $15,000 or less would most likely be negligible. However, the probability of a negative pension solvency impact would rise as the salary cap rises, which starts moving the exemption from a definite part-time salary cap to one that might start falling into the full-time category. If this occurs, it would be less expensive for an employer to hire a RTW employee and make no contributions on his or her behalf. Therefore, PERA would be concerned that the roster of active members (with both employee and employer contributions) could decline as the positions are filled with non-contributing RTW employees.

ALTERNATIVES

One option would be to strengthen restrictions on post-retirement hiring by contract or through third-parties so that the apparent intent of the bill to allow part-time work but keep RTW employees to a minimum is fully implemented. AOC proposes raising the cap to $25,000.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA retirees will remain ineligible to keep their pensions and earn up to $15,000 each calendar year.

POSSIBLE QUESTIONS

1. **What is a reasonable cap that would serve the interests of the employers without hurting pension solvency?**

2. **How can the RTW statute protect employment for new generations of workers?**

MA/bym/mew