

# HOUSE BILL REPORT

## SHB 1262

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### As Passed Legislature

**Title:** An act relating to the public employment of retirees from the teachers' retirement system plan 1 and the public employees' retirement system plan 1.

**Brief Description:** Addressing the public employment of retirees from the teachers' retirement system plan 1 and the public employees' retirement system plan 1.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Bailey, Conway, Fromhold, Ericks, Simpson and Moeller; by request of Select Committee on Pension Policy).

### Brief History:

#### Committee Activity:

Appropriations: 1/23/07, 1/29/07 [DPS].

#### Floor Activity:

Passed House: 2/14/07, 93-2.

Passed Senate: 4/3/07, 48-0.

Passed Legislature.

### Brief Summary of Substitute Bill

- Defines separation from service in the Teachers' Retirement System (TRS) as excluding circumstances where an employee and his or her employer have an oral or written agreement to return to work following termination; in both TRS and the Public Employees' Retirement System (PERS), mere inquiries about postretirement employment do not constitute an agreement.
- Adds a gross misdemeanor penalty to the TRS for making a false statement to the Department of Retirement Systems related to separation from service.
- Requires that PERS and TRS Plan 1 retirees only be rehired pursuant to a written employer policy on hiring retirees.
- Increases the length of break in service in TRS from one to one and one-half months for eligibility for 1,500 hour years without suspension of retirement benefits.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Imposes a prospective cumulative lifetime cap in TRS of 1,900 hours worked beyond an annual 867 hour threshold.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist and Walsh.

**Staff:** David Pringle (786-7310).

### **Background:**

#### Separation From Service

A member must separate from service in order to qualify for a retirement allowance. Separation from service is defined in the Public Employees' Retirement System Plan 1 (PERS 1) to mean that the member has no oral or written agreement to resume work with their employer after entering retirement. In contrast, separation from service in the Teachers' Retirement System Plan 1 (TRS 1) requires that the member have no written agreement to resume work with their employer after entering retirement. After entering retirement status, a member may begin his or her retirement allowance on the first day of the month following the month that he or she applies for retirement benefits. The date that retirement benefits begins is referred to as a member's "accrual date."

#### Length of Separation From Service

Members of PERS 1 and TRS 1 who re-enter employment with an eligible employer within one month of retiring are subject to a benefit reduction. The reduction is equal to 5.5 percent of the monthly benefit for every eight hours worked that month and is applied until such time as the retiree remains absent from eligible employment for at least one full calendar month.

Retirees from PERS 1 who have been separated from service for one calendar month after their accrual date may work up to 867 hours per calendar year without a reduction in pension benefits. Retirees from PERS 1 who have been separated from service for three calendar months, and whose hiring meets specific approval and record-keeping requirements, may work up to 1,500 hours per calendar year without a reduction in pension benefits. Once the 1,500 hour limit is exceeded, pension benefits are suspended until the beginning of the next calendar year.

Retirees from TRS 1 who have been separated from service for one calendar month may work up to 1,500 hours per year without a reduction in pension benefits.

### 1,900 Hour Lifetime Limit

The number of years a PERS 1 retiree may work for 1,500 hours without a reduction in benefits is limited, however. Each PERS 1 retiree may only work for a lifetime cumulative limit of 1,900 hours beyond 867 hours per calendar year. The 2003 Legislature passed Substitute House Bill 1829, which added additional restrictions on reemployment by retirees that currently apply to PERS 1 but not TRS 1. Substitute House Bill 1829 contained provisions adding similar restrictions to TRS 1, but those sections were vetoed by the Governor.

### False Claims

Both PERS and TRS have provided sanctions for filing false statements to the Department of Retirement Systems (DRS) since 1947. A person who files a false record or false statement to the DRS in any attempt to defraud the retirement systems is guilty of a gross misdemeanor in PERS and a felony in TRS. The felony provision in TRS was made a class "B" felony by the 2003 Legislature.

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## **Summary of Substitute Bill:**

### Separation From Service

The definition of "separation from service" in PERS is amended to specify that expressions or inquiries about postretirement employment by employers or employees do not constitute an agreement, and does not mean that separation from service did not occur. The definition of "separation from service" in TRS is amended to include the same language as PERS, as amended in the bill. Separation from service does not occur in TRS when an employee and employer have a written or oral agreement to resume employment following termination. Claiming separation from service, and eligibility for a retirement benefit, when such an agreement exists may violate the TRS false claims provision.

### False Claims

An additional false claims provision is added to TRS, specifically providing a gross misdemeanor penalty related to a member's separation from service and qualification for a retirement allowance.

### Length of Separation from Service

The break in service required for members of TRS 1 required for eligibility for years of 1,500 hours of covered employment without suspension of retirement benefits is lengthened from one month to one and one-half months.

### 1,900 Hour Lifetime Limit

The number of hours a TRS 1 retiree may work for 1,500 hours without a reduction in benefits is limited to 1,900 hours in excess of 867 per year, cumulative for the lifetime of each retiree. This 1,900 hour restriction is applied prospectively after the effective date of the act.

### Written Employer Hiring Policies

Several procedures for hiring retirees are added to TRS 1, and the PERS 1 procedure is also modified. A school board or the other highest decision-making authority must approve hiring a retiree. In both PERS 1 and TRS 1, an employer must hire a retiree pursuant to a written policy and must document a justifiable need to hire a retiree into the position being filled. The employer must also hire the retiree through the established process for the position, retain records of the procedures followed and decisions made in hiring, and provide those records in the event of an audit.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) I have great hope that we can pass this bill this year. It is a matter of parity, and can correct some of the things that have happened in the retire-rehire area that have been questionable. In many ways this bill cleans up the program. This bill has been worked on for a long time. The TRS rules will make sure that school districts follow the rules. The three year limit and the one and one-half month break in service requirements are all important. There are shortages of key types of teachers - especially in the math and science areas, and school principal positions have high turnover as well. We know that there have been anecdotal instances of abuse, and this bill may not eliminate every one, but it should help reduce them while still being less expansive than some of the alternatives. The original program didn't have any sideboards, and this bill focuses the program on the key shortages of teachers and others. The Select Committee developed limits that would bring back continuity between TRS and PERS.

(With concerns) While I support the portions of the bill that relate to separation from service and procedures that must be followed, but small and remote school districts like LaCrosse have great difficulty in attracting good teachers and the three-year lifetime limit puts us at a disadvantage.

(Opposed) None.

**Persons Testifying:** (In support) Representative Bailey, prime sponsor; and John Kvamme, Washington Association of School Administrators and Association of Washington School Principals.

(With concerns) Gary Wargo, LaCrosse Schools.

**Persons Signed In To Testify But Not Testifying:** None.