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Fiscal Note

June 15, 2022

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H.572 (Act 173) – An act relating to the retirement allowance for interim educators

As Passed by the General Assembly

Link to Bill:
https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT173/ACT173%20As%20Enacted.pdf

Bill Summary

This legislation amends the Vermont State Teachers' Retirement System (VSTRS) to permit a retired member to return to active teaching service on an interim basis, at any rate of compensation, for a period not to exceed one school year while still collecting a retirement benefit. This legislation would create an additional path for retired teachers to return to active teaching service for a limited time, which might assist local education agencies with short-term hiring and recruitment challenges. Under this legislation, a member's retirement benefit would not be suspended during the return to active service as an interim educator or be modified as a result of the additional service performed.

The fiscal impact of this legislation to the VSTRS pension system is not currently known. The impact will depend on the number of VSTRS members who would use this provision and the extent to which this provision may alter retirement and net turnover behaviors of the VSTRS membership in the future.

Additionally, the legislation contains a technical correction to 16 V.S.A. § 1949 pertaining to the cost of living adjustment (COLA) formula for VSTRS members. S.286, which previously passed the Legislature, inadvertently deleted existing statutory language that defines the COLA formula for different employee groups. This legislation restores the language that was inadvertently deleted, and clarifies that the COLA benefit changes in S.286 do not apply to vested deferred members.

Overview of Legislation

Current Law

Retired members of the VSTRS system are permitted under 16 V.S.A. § 1939 to resume active service on a limited basis without disrupting their retirement benefit. However, the member's retirement benefit shall be suspended if the member is compensated in excess of the allowable number of days per school year as established by the Retirement Board for substitute teaching, or receives compensation in excess of 60 percent of the average compensation in the teacher retirement system during their period of restored service. Upon subsequent retirement, the member's former retirement allowance is restored (if applicable), and the member also receives a separately computed retirement allowance for the period of restored service for which they made pension contributions.

Proposed State

H.572 creates an additional path to allow retired VSTRS members (beneficiaries) to return to active service as an interim school educator and continue to receive a retirement allowance during that period of interim service, regardless of their level of compensation, with some restrictions:

- The beneficiary must have received a retirement allowance for six months or more prior to resuming service;
- The employer of the beneficiary shall make annual "new teacher assessment" payments into the Retired Teachers' Health and Medical Benefits Fund (RTHMB) for the entire period that service is resumed consistent with 16 V.S.A. § 1944d;
- The beneficiary who resumes service under this provision would *not* make contributions into the VSTRS pension system during their period of interim service, nor would their retirement allowance increase from the period of service performed as an interim educator. However, the employer of the beneficiary would pay a fee to the VSTRS pension system in an amount equivalent to what the member would have contributed if they were a new hire rather than an interim educator.[1]
- Each superintendent who hires an interim educator pursuant to this legislation must certify to the VSTRS Board that the district exhausted all reasonable options to employ a qualified active educator prior to employing a beneficiary as an interim educator.

The bill authorizes this path for beneficiaries to resume active service as an interim educator for FY 2023 only, but empowers the State Treasurer to grant not more than two renewals for a one-fiscal-year period for the ability of a beneficiary to resume service as an interim educator under the provisions of this bill during FY 2024 and 2025. Should the State Treasurer renew this authority, a beneficiary may only resume service during each one-year renewal period if service is performed in a different interim school educator position.

The legislation also contains a sunset provision that repeals all the elements of H.572 on June 30, 2026.

Fiscal Impact

The actuarial impact of this legislation on the VSTRS retirement system will depend on the number of members who utilize this provision and how it may cause retirement behaviors to change.

On its face, requiring employers to pay a fee equivalent to member contributions during the period of interim service (without the member earning any additional retirement benefit for that period of interim service) is likely to have a neutral to negligibly positive actuarial impact to the VSTRS system. The salary experience and service credit from the member's period of interim service would not increase the accrued liabilities of the pension system, and the system would not experience any significant revenue loss as a result of a local hiring decision since the payments would be equal to what the member would have paid had they been hired through the typical process. Furthermore, since the pension contributions would not be paid by the member, the pension system would not be obligated to refund contributions paid by the member during their period of resumed service when they subsequently retire without an additional retirement benefit. Additionally, the "new teacher assessment" would be paid to the RTHMB Fund as if the school hired an active educator rather than a beneficiary, resulting in no adverse revenue impact to that Fund as a result of a school hiring decision.

[1] As introduced, the bill required beneficiaries to resume paying pension contributions during their period of service as an interim educator. As proposed by the Senate, interim educators would not pay pension contributions, but employers would pay a $2,500 fee to the State Treasurer for administrative expenses for each beneficiary hired as an interim educator. The bill as passed removes the $2,500 fee paid by employers to the State Treasurer and replaces it with a requirement that employers pay the equivalent of the member's pension contributions to the VSTRS pension system. The contribution rates for FY 2023, pursuant to Section 19 of S.286, will range from 6.00% to 6.65% of total earnable compensation depending on the member's base salary.

However, if this proposal causes member retirement or net turnover behaviors to change substantially, it could increase the unfunded liabilities of the pension and retiree health care systems. For example, if more members decide to retire at earlier ages than they otherwise would because they find it more attractive to retire and work for a limited time as an interim educator (thereby receiving both a salary and a pension benefit concurrently), that could cause the unfunded pension and health care liabilities to increase, which would be expected to lead to increased future employer retirement costs.

While it is not currently known how many members would return to service on an interim basis under these terms, the provisions requiring a member to be retired for at least six months prior to serving as an interim educator, as well as the certification and renewal requirements, limited period of applicability, and sunset provision are likely to narrow the universe of members who would return to service under this provision. These terms may also reduce any incentive for a member to retire earlier than they otherwise would (thereby potentially leading to less actuarial risk) since their ability to return to service under these provisions would be limited and require a 6-month minimum "waiting period" in retirement.

A more accurate estimate of the impacts of this legislation would require actuarial analysis that is either based on projections from imputed assumptions about member behavior in the future, or is informed by several years of experience data reviewed retroactively.

Technical Correction

The legislation also contains a technical correction to 16 V.S.A. § 1949 pertaining to the cost of living adjustment (COLA) formula for VSTRS members. S.286, which previously passed the Legislature earlier in the session, unintentionally deleted existing statutory language that defines the COLA formula relative to the net percentage increase in the Consumer Price Index for different employee groups. This legislation restores the language that was inadvertently deleted, and also includes language that exempts vested deferred from the COLA changes in S.286 which is consistent with the Pension Task Force recommendations.[2]

[2] "Vested deferred" members are eligible for a future retirement benefit but are not currently in active service or drawing a benefit from the pension system.