

REPORT OF THE GENERAL GOVERNMENT, PERSONNEL & BENEFITS SUBCOMMITTEE

(Cobb-Hunter, Hayes, Bannister, Moss, Willis - Staff Contact: Sarah Hearn)

HOUSE BILL 4918

H. 4918 -- Reps. Thayer, Pope and White: A BILL TO AMEND SECTION 9-11-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EARNINGS LIMITATION UPON RETURN TO COVERED EMPLOYMENT IN THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO INCREASE THE AMOUNT THAT MAY BE EARNED WITHOUT AFFECTING THE MONTHLY RETIREMENT ALLOWANCE FROM TEN THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS FOR CERTAIN RETIRED MEMBERS.

Received by Ways and Means:

February 3, 2022

Summary of Bill:

As amended by the subcommittee, this bill would allow employees participating in PORS or SCRS to return to covered employment without an earnings cap, provided that employee has been retired for at least twelve months at the time they return. The twelve-month period does not apply to participants of PORS returning to work in a critical needs position as defined by the Law Enforcement Training Counsel. The General Assembly has the authority to approve the positions considered "critical needs" by the Law Enforcement Training Counsel each year.

Estimated Revenue Impact:

This bill as amended will increase the unfunded actuarial accrued liability of PORS by \$73,000,000. Should the General Assembly choose to fund this increase, this bill will result in a one-time increase of \$88,000,000 in expenditures in FY 2022-23.

Other Notes/Comments:

Favorable as Amended on March 9, 2022.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN
MARCH 8, 2022

CLERK OF THE HOUSE

THE GENERAL GOVERNMENT LEGISLATIVE SUBCOMMITTEE
PROPOSES THE FOLLOWING AMENDMENT No. TO H. 4918
(COUNCIL\SA\4918C001.DF.SA22):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. SECTION 9-11-90(4)(A)(II) OF
THE 1976 CODE IS AMENDED TO READ:**

**“(II) THE EARNINGS LIMITATION
IMPOSED PURSUANT TO THIS ITEM DOES NOT
APPLY IF THE MEMBER MEETS AT LEAST ONE OF
THE FOLLOWING QUALIFICATIONS:**

**(A) THE MEMBER RETIRED BEFORE
JANUARY 2, 2013;**

**(B) THE MEMBER HAS ATTAINED
THE AGE OF FIFTY-SEVEN YEARS AT RETIREMENT;
OR**

**(C) COMPENSATION RECEIVED BY
THE RETIRED MEMBER FROM THE COVERED
EMPLOYER IS FOR SERVICE IN A PUBLIC OFFICE
FILLED BY THE APPOINTMENT OF THE GOVERNOR
AND WITH CONFIRMATION BY THE SENATE, BY
APPOINTMENT OR ELECTION BY THE GENERAL
ASSEMBLY, OR BY ELECTION OF THE QUALIFIED
ELECTORS OF THE APPLICABLE JURISDICTION;**

**(D) THE MEMBER HAS NOT BEEN
ENGAGED TO PERFORM SERVICES FOR A
PARTICIPATING EMPLOYER IN THE SYSTEM OR
ANY OTHER SYSTEM PROVIDED IN THIS TITLE FOR
COMPENSATION IN ANY CAPACITY, WHETHER AS
AN EMPLOYEE, INDEPENDENT CONTRACTOR,
LEASED EMPLOYEE, JOINT EMPLOYEE, OR OTHER
CLASSIFICATION OF WORKER, FOR A PERIOD OF
AT LEAST TWELVE CONSECUTIVE MONTHS**

SUBSEQUENT TO RETIREMENT. THE EXEMPTION PROVIDED UNDER THIS SUBITEM DOES NOT APPLY UNLESS THE MEMBER FIRST CERTIFIES TO THE SYSTEM THAT HE SATISFIES THE REQUIREMENTS FOR THE EXEMPTION. IF A MEMBER INACCURATELY CERTIFIES THAT HE SATISFIES THE REQUIREMENTS FOR THE EXEMPTION PROVIDED IN THIS SUBITEM, THE MEMBER IS RESPONSIBLE FOR REIMBURSING THE SYSTEM FOR ANY BENEFITS WRONGLY PAID TO THE MEMBER; OR

(E) COMPENSATION RECEIVED BY THE RETIRED MEMBER FROM THE COVERED EMPLOYER IS FOR EMPLOYMENT IN A CRITICAL NEEDS LAW ENFORCEMENT POSITION AS DETERMINED BY THE LAW ENFORCEMENT TRAINING COUNCIL. FOR THE PROVISIONS OF THIS SUBITEM TO APPLY, THE LAW ENFORCEMENT TRAINING COUNCIL MUST REVIEW AND APPROVE, FROM THE DOCUMENTATION PROVIDED BY THE COVERED EMPLOYER, THAT NO QUALIFIED, NONRETIRED MEMBER IS AVAILABLE FOR EMPLOYMENT IN THE POSITION, AND THAT THE MEMBER SELECTED FOR EMPLOYMENT MEETS THE REQUIREMENTS OF THIS SUBITEM. NO LATER THAN JANUARY 1, 2023, AND EACH JANUARY FIRST THEREAFTER, THE LAW ENFORCEMENT TRAINING COUNCIL MUST SUBMIT A REPORT TO THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE OF THE POSITIONS REQUESTED FOR INCLUSION IN THE EARNINGS LIMITATION EXCEPTION UNDER THIS SUBITEM FOR THE FOLLOWING FISCAL YEAR. EFFECTIVE JULY 1, 2023, AND EACH JULY

FIRST THEREAFTER, THE EARNINGS LIMITATION EXCEPTION PROVIDED IN THIS SUBITEM ONLY APPLIES TO THOSE POSITIONS APPROVED BY ACTION OF THE GENERAL ASSEMBLY FOR THE FISCAL YEAR IN RESPONSE TO THE REPORT SUBMITTED BY THE LAW ENFORCEMENT TRAINING COUNCIL. THE LAW ENFORCEMENT TRAINING COUNCIL SHALL DEVELOP GUIDELINES AND CURRICULUM FOR THESE OFFICERS TO BE RECERTIFIED AND MAY NOT REQUIRE RECERTIFICATION THROUGH BASIC TRAINING FOR THOSE THAT HAVE BEEN INACTIVE FOR A YEAR OR MORE."

SECTION 2. SECTION 9-1-1790(A)(2) OF THE 1976 CODE IS AMENDED TO READ:

"(2) THE EARNINGS LIMITATION IMPOSED PURSUANT TO THIS ITEM DOES NOT APPLY IF THE MEMBER MEETS AT LEAST ONE OF THE FOLLOWING QUALIFICATIONS:

(A) THE MEMBER RETIRED BEFORE JANUARY 2, 2013;

(B) THE MEMBER HAS ATTAINED THE AGE OF SIXTY-TWO YEARS AT RETIREMENT; OR

(C) COMPENSATION RECEIVED BY THE RETIRED MEMBER FROM THE COVERED EMPLOYER IS FOR SERVICE IN A PUBLIC OFFICE FILLED BY THE APPOINTMENT OF THE GOVERNOR AND WITH CONFIRMATION BY THE SENATE, BY APPOINTMENT OR ELECTION BY THE GENERAL ASSEMBLY, OR BY ELECTION OF THE QUALIFIED ELECTORS OF THE APPLICABLE JURISDICTION; OR

(D) THE MEMBER HAS NOT BEEN ENGAGED TO PERFORM SERVICES FOR A PARTICIPATING EMPLOYER IN THE SYSTEM OR ANY OTHER SYSTEM PROVIDED IN THIS TITLE FOR COMPENSATION IN ANY CAPACITY, WHETHER AS AN EMPLOYEE, INDEPENDENT CONTRACTOR, LEASED EMPLOYEE, JOINT EMPLOYEE, OR OTHER CLASSIFICATION OF WORKER, FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS SUBSEQUENT TO RETIREMENT. THE EXEMPTION PROVIDED UNDER THIS

SUBITEM DOES NOT APPLY UNLESS THE MEMBER FIRST CERTIFIES TO THE SYSTEM THAT HE SATISFIES THE REQUIREMENTS FOR THE EXEMPTION. IF A MEMBER INACCURATELY CERTIFIES THAT HE SATISFIES THE REQUIREMENTS FOR THE EXEMPTION PROVIDED IN THIS SUBITEM, THE MEMBER IS RESPONSIBLE FOR REIMBURSING THE SYSTEM FOR ANY BENEFITS WRONGLY PAID TO THE MEMBER.”

SECTION 3. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 4918	Amended by House Ways and Means General Government Legislative Subcommittee on March 9, 2022
Author:	Thayer	
Subject:	Retirement System Earnings Limitation	
Requestor:	House Ways and Means	
RFA Analyst(s):	Coomer	
Impact Date:	March 28, 2022	

Fiscal Impact Summary

This bill as amended removes the earnings limitation for a retiree of the Police Officers Retirement System (PORS) if the employee is separated from covered employment for at least twelve months before returning to covered employment, or if the retiree returns to employment in a critical needs law enforcement position. The bill additionally removes the earnings limitation for a retiree of the South Carolina Retirement System (SCRS) if the employee is separated from covered employment for at least twelve months before returning to covered employment.

This bill as amended will increase the unfunded actuarial accrued liability of PORS by \$73,000,000. Should the General Assembly choose to fund this increase, this bill will result in a one-time increase of \$88,000,000 in expenditures in FY 2022-23.

This bill as amended will have no expenditure impact on SCRS due to the twelve-month separation provision.

This bill as amended will have no expenditure impact on the Law Enforcement Training Council for reviewing and approving critical needs position documentation, preparing annual reports, and developing guidelines and curriculums.

Explanation of Fiscal Impact

Amended by House Ways and Means General Government Legislative Subcommittee on March 9, 2022

State Expenditure

This bill as amended removes the earnings limitation for a retiree of PORS if the employee is separated from covered employment for at least twelve months before returning to covered employment, or if the retiree returns to employment in a critical needs law enforcement position. The Law Enforcement Training Council (council) is required to determine if a position is a critical needs position by reviewing and approving documentation provided by a covered employer. By January 1, 2023 and each year thereafter, the council is required to submit a report to the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee of the positions requested for inclusion in the earnings limitation exception

for the following fiscal year. The General Assembly must approve positions in the report submitted by the council. Furthermore, the council is required to develop guidelines and curriculum for these officers to be recertified and may not require recertification through basic training for those that have been inactive for a year or more.

Additionally, the bill as amended removes the earnings limitation for a retiree of SCRS if the employee is separated from covered employment for at least twelve months before returning to covered employment.

Currently, a member of PORS who retires prior to age fifty-seven, returns to employment that is covered by PORS, and earns more than \$10,000 in a calendar year is subject to an earnings limitation which discontinues the member's retirement benefits in that year. Members of SCRS are similarly subject to the earnings limitation when retiring prior to age sixty-two. PEBA indicates that a change to the earning limitation may increase the number of reemployed retirees and lead to more workers electing to retire at an earlier age. This will result in a higher actuarial accrued liability and increase normal cost, or cost of service earned towards an active member's benefit in a given year, since a member's retirement benefit is funded over a shorter career. For the retirement systems to attain a 100 percent funded ratio at the same projected date, the amortization cost will need to increase.

PEBA reports that the provisions allowing SCRS and PORS members to return to covered employment after a twelve-month separation and be exempt from the earnings limitation will have no fiscal impact on SCRS or PORS. PEBA views the twelve-month period as sufficiently long enough such that there will be no measurable change in retirement behavior.

PEBA reports that the critical needs provision for PORS retirees will have an expenditure impact on PORS. There are currently 2,095 PORS members that are younger than age 57 and eligible to retire. Assuming that some members will retire earlier than they otherwise would to take advantage of the critical needs provision, PEBA estimates that the unfunded actuarial accrued liability will increase by \$73,000,000. PEBA indicates the necessary one-time appropriation to maintain the current funding period is \$88,000,000. If the General Assembly chooses to fund this increase, this bill as amended will result in a one-time increase of \$88,000,000 in General Fund, Other Funds, and Federal Funds expenditures in FY 2022-23.

This bill as amended will have no expenditure impact on the Law Enforcement Training Council for reviewing and approving critical needs position documentation, preparing annual reports, and developing guidelines and curriculums.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Introduced on February 3, 2022

State Expenditure

This bill increases the earnings limitation for a retiree of PORS from \$10,000 to \$50,000 for any member who returns to covered employment and works in a non-administrative capacity at the time of reemployment. Currently, a retiree who returns to employment that is covered by PORS and earns more than \$10,000 in a calendar year is subject to an earnings limitation which discontinues the member's retirement benefits in that year. Increasing the earnings limitation from \$10,000 to \$50,000 for members who return to covered employment in a non-administrative capacity may decrease the number of members whose benefits are discontinued in a calendar year.

PEBA is working with an actuary to prepare the actuarial analysis of the impact of this bill. Therefore, the expenditure impact of this bill is pending, contingent upon a response from PEBA.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
124th Session, 2021-2022

H. 4918

STATUS INFORMATION

General Bill

Sponsors: Reps. Thayer, Pope, White, Erickson, Gilliam and Long

Document Path: I:\council\bill\df\13115sa22.docx

Companion/Similar bill(s): 328, 3032, 3557, 3595

Introduced in the House on February 3, 2022

Currently residing in the House Committee on **Ways and Means**

Summary: Retirement system, earning limitation upon return to work to covered employment in SCPORS

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/3/2022	House	Introduced and read first time (House Journal-page 13)
2/3/2022	House	Referred to Committee on Ways and Means (House Journal-page 13)
2/8/2022	House	Member(s) request name added as sponsor: Erickson
3/1/2022	House	Member(s) request name added as sponsor: Gilliam
3/8/2022	House	Member(s) request name added as sponsor: Long

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VERSIONS OF THIS BILL

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A BILL

TO AMEND SECTION 9-11-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EARNINGS LIMITATION UPON RETURN TO COVERED EMPLOYMENT IN THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO INCREASE THE AMOUNT THAT MAY BE EARNED WITHOUT AFFECTING THE MONTHLY RETIREMENT ALLOWANCE FROM TEN THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS FOR CERTAIN RETIRED MEMBERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 9-11-90(4) of the 1976 Code is amended by adding:

“(e) Notwithstanding the ten thousand dollar earnings limitation contained in this subsection (4), a retired member of this system may be hired and return to employment covered by this system and may earn up to fifty thousand dollars without affecting the monthly retirement allowance the member is receiving from this system, so long as at the time of reemployment, the retired member is working in a nonadministrative capacity. An employer shall provide documentation of need to the Public Employee Benefit Authority.”

SECTION 2. This act takes effect upon approval by the Governor.

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