

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1307
Appropriations

(Delegate Morhaim)

Budget and Taxation

Public Employees' and Retirees' Benefit Sustainability Commission - Advance Directives

This bill requires the Public Employees' and Retirees' Benefit Sustainability Commission to study and make recommendations regarding methods to facilitate and encourage more State retirees to complete advance directives used to plan for future health care decisions. The commission must report its findings to the Governor, Office of the Attorney General (OAG), the Blue Ribbon Commission to Study Retiree Healthcare Funding Options, and designated committees of the General Assembly by December 15, 2011.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None. The Department of Legislative Services (DLS) can carry out the bill's requirements with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The commission's review must include:

- an evaluation of *A Guide to Maryland Law on Health Care Decisions* issued by OAG in September 2007, and revised in April 2009;

- an analysis of any factors that deter or prevent completion of advance directives by State retirees;
- proposals for increased educational efforts relating to the completion of advance directives by State retirees; and
- a study and evaluation of methods for effectively facilitating and encouraging more State retirees to complete advance directives.

Current Law:

Benefit Sustainability Commission

The Budget Reconciliation and Financing Act of 2010 (Chapter 484) created the Public Employees' and Retirees' Benefit Sustainability Commission to study and make recommendations with respect to State-funded health care benefits and pensions provided to State and public education employees and retirees. The commission consists of the State Treasurer, three members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Delegates. Except for the State Treasurer, the commissioners may not be members of the General Assembly, members of the Board of Trustees for the State Retirement and Pension System (SRPS), employees of a governmental agency, or employees of an organization that represents a governmental agency or governmental employees. The law requires that DLS provide staff for the commission, with support from the Department of Budget and Management, the State Treasurer's Office, the State Retirement and Pension System, and pension and health actuaries.

The commission is required to examine long-term estimated increases in the State's annual required contributions to maintain the current benefit structures and evaluate the sustainability of the State funding. The commission is also required to evaluate the appropriate levels of contribution for the direct employers of public education employees in the State. The commission must prepare a report by December 15, 2010, with specific and actionable recommendations. The commission is required to complete its final report on or before June 30, 2011. It is the intent of the General Assembly that the recommendations of the commission be implemented no later than fiscal 2013. The commission terminates on June 30, 2012.

Advance Directives

Maryland's Health Care Decisions Act of 1993, as amended, allows adults to make decisions about future health care issues in any of three ways:

- a written directive, witnessed and signed by two people, authorizing the provision, withholding, or withdrawal of health care;
- a written appointment of an agent to make health care decisions for the patient; or
- an oral statement made to a physician in the presence of one witness.

Written advance directives do not need to be notarized, and there is no standard form, thereby allowing the individual to establish his or her own directives.

Background: The commission's establishment was driven by the recent and projected growth in employer liabilities and costs for retiree health and pension benefits. Among the key concerns were that the funding level for SRPS had dropped to 64.1%, well below the 80% standard for healthy pension plans, and that the State had no plan to address its growing unfunded retiree health liabilities. The commission's January 2011 report included multiple recommendations for restructuring pension and retiree health benefits for State retirees and teachers. The commission also recommended that the State embrace the following goals:

- the State should achieve actuarial funding levels for SRPS of 80% within 10 years and 100% within 30 years; and
- the State should reduce its unfunded retiree health liability by 50% and commit to fully funding its annual required contribution within 10 years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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