

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 960

(Senator Hettleman)

Budget and Taxation

Appropriations

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**State Retirement and Pension System - Membership and Benefits**

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This bill prohibits specified individuals from enrolling in the Optional Retirement Program (ORP). It also exempts a specified individual from the 45-day waiting period before being reemployed as a retiree by an employer that participates in, or withdrew from, the State Retirement and Pension System (SRPS). **The bill takes effect June 1, 2020.**

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**Fiscal Summary**

**State Effect:** The bill is believed to apply to three individuals and has no material effect on State pension liabilities or contribution rates. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The first individual to whom the bill applies:

- on or before July 1, 1986, began employment in the State Personnel Management System (SPMS) as an assistant Attorney General (AAG) assigned to the Maryland Department of Transportation and enrolled in the Employees' Pension System (EPS) as a condition of employment;
- on or before August 1, 1993, transferred to the University System of Maryland (USM) personnel system while still employed as an AAG and elected to enroll in ORP;

- on or before March 1, 1997, transferred to SPMS as an AAG and resumed participation in EPS; and
- on or before April 1, 1997, withdrew accumulated contributions from ORP.

The bill prohibits this individual from participating in ORP on or after July 1, 2020.

The second individual to whom the bill applies:

- on or after January 1, 2007, began employment with the Carroll County Community College as a web designer and elected to participate in ORP;
- on or after August 1, 2015, began employment with the Maryland Department of Health and enrolled in EPS as a condition of employment;
- on or after April 1, 2019, began employment with the Department of Human Services and continued enrollment in EPS; and
- on or after December 1, 2019, began employment with the Maryland Higher Education Commission (MHEC) and was re-enrolled in ORP

In addition to prohibiting the second individual from participating in ORP on or after June 1, 2020, the bill requires the individual to resume membership in EPS on June 1, 2020.

The third individual to whom the bill applies:

- was employed as a teacher for the Frederick County Public Schools and retired from the Teachers' Pension System (TPS) on or after July 1, 2019;
- was elected to the Town Commission for the Town of Walkersville in 2015 and again in 2018;
- enrolled in EPS as a commissioner for the Town of Walkersville on or after October 15, 2015;
- remains a commissioner for the Town of Walkersville on June 1, 2020; and
- on or before July 1, 2020, has reached or exceeded normal retirement age in EPS and TPS.

This individual must cease membership in EPS as of June 30, 2019. After separating from employment as a commissioner for the Town of Walkersville, the individual is entitled to (1) a return of accumulated contributions or any other benefit based on membership in EPS as of June 30, 2019 and (2) a return of accumulated contributions made by the individual to EPS from July 1, 2019 through May 31, 2020.

**Current Law:** ORP is a tax-favored defined-contribution retirement savings plan available to designated employees of the institutions listed below, as an alternative to membership in SRPS:

- USM;
- Morgan State University (MSU);
- St. Mary's College of Maryland (SMCM);
- MHEC; and
- community colleges or regional community colleges in the State, including Baltimore City Community College.

To join ORP, individuals in employing institutions must be eligible for membership in SRPS and be:

- members of the faculty of an employing institution;
- professional employees of MHEC;
- professional employees of a community college;
- employees of USM who are exempt from the federal Fair Labor Standards Act (FLSA);
- executive or professional administrative employees of MSU; or
- employees of SMCM who are exempt from FLSA.

ORP provides an employer contribution of 7.25% of a member's compensation, which is paid by employing institutions. ORP is authorized under § 403(b) of the federal Internal Revenue Code, which applies only to employees of educational institutions and specified nonprofit organizations.

A decision to join ORP is a one-time, irrevocable decision that must be made within one year of becoming eligible to join ORP. In general, ORP members are not eligible to participate in any of the defined benefit plans offered by the State. An exception is made for individuals who elected to participate in ORP before July 1, 2017, and are subsequently appointed, promoted, or transferred to another position that is eligible for membership in an SRPS plan but not eligible for membership in ORP. In that instance, the individual must participate in the SRPS plan as a condition of employment.

#### *Reemployment Provision*

In general, retirees who receive a retirement benefit from the State may be reemployed, except that they may not be reemployed by the State or any participating or withdrawn SRPS employer within 45 days of retiring.

**Background:** The State Retirement Agency is aware of three individuals who meet the criteria in the bill. Under the bill, two of those individuals must remain, or be re-enrolled, in EPS and may not participate in ORP. The third individual is exempt from the 45-day reemployment prohibition in current law, must cease membership in EPS, and is entitled to a return of specified member contributions to SRPS.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 683 (Delegate Hettleman) - Appropriations.

**Information Source(s):** University System of Maryland; Maryland Department of Transportation; State Retirement Agency; Department of Legislative Services

**Fiscal Note History:** rh/vlg  
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