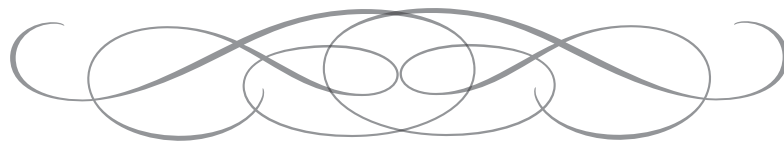


Joint Committee on Pensions



2015 INTERIM REPORT



Annapolis, Maryland
April 2016

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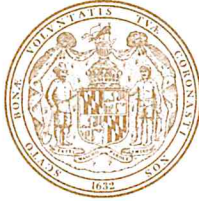
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MARYLAND GENERAL ASSEMBLY
JOINT COMMITTEE ON PENSIONS

December 16, 2015


The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee


Ladies and Gentlemen:

The Joint Committee on Pensions herewith submits a report of its 2015 interim activities and legislative recommendations. The joint committee met three times during the 2015 interim and addressed two pension topics and eight legislative proposals requested by the Board of Trustees for the State Retirement and Pension System. The joint committee made recommendations on these items at its final meeting for the 2015 interim. The joint committee also had its annual briefings on the actuarial valuation of the system and the system's investments.

We thank the joint committee members for their diligence and attention to the work of the committee. Also, on behalf of the committee members, we thank Phillip S. Anthony, Dana K. Tagalicod, Michael C. Rubenstein, and Cathy Kramer of the Department of Legislative Services and the staff of the Maryland State Retirement Agency for their assistance.

Sincerely,


Senator Douglas J.J. Peters
Senate Chair


Delegate Benjamin S. Barnes
House Chair

DJJP:BSB/PSA:DKT/eck

Enclosure

cc: Mr. Warren G. Deschenaux
Ms. Lynne B. Porter

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2015 Interim
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Joint Committee on Pensions

2015 Interim Report

Over the course of three meetings during the 2015 interim, the Joint Committee on Pensions addressed two pension topics and eight legislative proposals requested by the Board of Trustees for the State Retirement and Pension System (SRPS).

Results of the 2015 Actuarial Valuation and Fiscal 2017 Contribution Rates

Exhibit 1 shows that the employer contribution rate for teachers will increase from 16.49% in fiscal 2016 to 16.55% in fiscal 2017, and the contribution rate for State employees will increase from 17.04% in fiscal 2016 to 18.93% in fiscal 2017. The aggregate State contribution rate, including contributions for public safety employees and judges, increases from 17.58% in fiscal 2016 to 18.32% in fiscal 2017. Based on projected payroll growth and other factors, the SRPS actuary estimates that total employer pension contributions will increase by \$115.5 million, from \$1.775 billion in fiscal 2016 to \$1.891 billion in fiscal 2017.¹ The funding rates and contribution amounts are inclusive of the required supplemental contributions required by Chapter 489 of 2015. The rates for fiscal 2016 were determined in accordance with the corridor funding method for the Teachers' and Employees' Systems. The fiscal 2017 contribution rate will be the true actuarially determined contribution rate. The actuarially determined contribution rate for fiscal 2017 without the supplemental contribution is the same as the fiscal 2016 corridor rate plus the supplemental contribution. From fiscal 2014 to 2015, SRPS's funded status (the ratio of projected actuarial assets to projected actuarial liabilities) improved from 67.7% at the end of fiscal 2014 to 68.6% at the end of fiscal 2015 (these figures exclude funding for local governments that participate in the State plan).

Employer contribution rates were subject to multiple influences this year, some exerting upward pressure and others downward pressure. Investment returns over the five-year smoothing period continue to exert downward pressure on contribution rates. Changes to the demographic assumptions from the most recent experience study are exerting upward pressure on the contribution rates, due to increased life expectancy. Chapter 489 eliminates the corridor funding method, which has restricted the growth of contribution rates for the Teachers' Combined System and the Employees' Combined System, the two largest plans within the SRPS. By eliminating the corridor method, Chapter 489 ensures that the budgeted contribution rate will be the actuarially determined rate necessary to fully fund the system.

In addition to eliminating the corridor method and returning the system to full actuarially determined funding, Chapter 489 also continues providing for a supplemental contribution of \$75 million each year until the system is 85% funded. Additionally, Chapter 489 included a "sweeper" provision, which will direct a portion of unspent general funds to the system as an additional supplemental payments in fiscal years 2017 through 2020. Based on the fiscal 2015

¹ Contribution rates and system contributions are based on the fiscal 2015 system valuation presented to the SRPS Board of Trustees by the system actuary, Gabriel Roeder Smith & Co. The values stated for fiscal 2017 may be affected by legislative action during the 2016 legislative session.

unappropriated fund balance, the Administration is required to include an additional \$50 million appropriation for State pension funds. This is the maximum required by Chapter 489.

The Department of Legislative Services (DLS) is unaware of other state systems that provide for full funding of the actuarially determined contribution, pay the actuarially determined contribution in full, and additionally provide for regular supplemental payment above the actuarially determined contribution.

Exhibit 1
State Pension Contributions
Fiscal 2016 and 2017

<u>Plan</u>	2016		2017	
	<u>Rate</u>	<u>\$ in Millions</u>	<u>Rate</u>	<u>\$ in Millions</u>
Teachers	16.49%	\$1,075.8	16.55%	\$1,105.2
Employees	17.04%	569.3	18.93%	643.1
State Police	80.08%	72.2	82.50%	78.8
Judges	40.70%	18.1	46.56%	21.8
Law Enforcement				
Officers	40.95%	40.1	40.72%	42.1
Aggregate	17.58%	\$1,775.4	18.32%	\$1,890.9

Note: Except for the Teachers' Combined System (TCS), contribution rates and dollar amounts reflect State funds only, excluding municipal contributions. For TCS, they reflect the combined total of State and local contributions. Figures also reflect the supplemental contributions established by Chapter 489 of 2015.

Source: Gabriel, Roeder, Smith & Co.

State Retirement and Pension System Investment Performance

The system's investment return for fiscal 2015 was 2.68%, net of management fees, failing to exceed its investment return target for the first time in the last three years. The performance was driven primarily by the system's public equity holdings, which made up 37.63% of the portfolio and returned 3.65% for the fiscal year. The system's assets totaled \$45.833 billion as of June 30, 2015, an increase of \$418.2 million over fiscal 2014 after accounting for benefit payouts and other expenses. This is the highest fiscal year-end balance in the fund's history and the second year in a row that the fund has exceeded \$45 billion. The strongest performing asset classes were private equity and real estate.

Despite failing to meet its actuarially assumed rate of investment return, all but two asset classes performed above their policy benchmarks. U.S. public equity holding returns were 94 basis points under the benchmark, while global equity exceeded its benchmark by 411 basis points. While international equity, which made up 11.05% of the fund, returned -0.29%, the asset class was 497 basis points above its benchmark. The pension fund's real estate and private equity holdings also contributed strong performance, returning 12.12% and 13.17%, respectively, with both exceeding their return benchmarks. As a whole, the system outperformed its policy benchmark by 182 basis points. Additionally, with the exceptions of U.S. equity and absolute return, each asset class achieved excess returns over their benchmarks for the one-, two-, and three-year periods.

Board Requested Legislation

Participating Governmental Units – Amortization Schedule

The current participating governmental unit (PGU) pool in the Employees' Pension System (EPS) has an amortization policy that separately amortizes portions of the unfunded liability over 25-year closed periods. There is a large negative amortization base that will be fully amortized during fiscal 2021. As a result, the pooled employer contribution rate for the PGU pool is projected to experience a large increase from 4.22% in fiscal 2021 to 8.57% in fiscal 2022. In anticipation of this large increase, the actuary for SRPS, Gabriel Roeder Smith & Company (GRS), has recommended that the funding policy be changed for the PGU pool such that the pooled unfunded liability is amortized over a period that is 25 years or less. The recommended policy would mirror the amortization period in effect for the State systems. The change would increase the contribution rate over the next 5 years above what is being projected under the current policy. However, all projected contribution rates under the policy that GRS is recommending are lower than the pooled contribution rate of 6.20%, which is in effect for fiscal 2015. Ultimately, though, the projected rate of 5.47% under the recommended policy is considerably lower than the projected rate of 8.57% under the current policy for fiscal 2022.

To avoid the significant increase to the pooled employer contribution rate for PGUs in fiscal 2022, the board recommends adopting a single 25-year closed amortization period similar to the amortization schedule in place for the State systems and as proposed by GRS. The board indicates this would also ensure compliance with the funding objectives of all defined benefit plan funding policies, specifically, stable contribution rates and intergenerational equity.

The joint committee will sponsor the requested legislation.

Commingling of Assets – Local Fire and Police System

Section 21-123(e) of the State Personnel and Pensions Article provides that the board may commingle the assets of the several systems, provided that the board keep separate records that detail the percentage of participation in each system, the percentage of income, gains, and losses

applicable to each system, and the total contributions and disbursements applicable to each system. The Local Fire and Police System (LFP) is listed among the several systems whose assets may be commingled provided that separate documents are maintained. This system was closed to new members in 2004, and legislation passed during the 2005 session transferred the assets and liabilities from LFP to the EPS for participants of withdrawn employers of LFP. As of June 30, 2008, no participating employers remained in the LFP; all had been moved to Law Enforcement Officers' Pension System (LEOPS).

The June 30, 2009 actuarial valuation for SRPS indicates that no assets or liabilities remained with LFP. The board recommends removing the obsolete language in § 21-123(e) that states that assets from LFP may be comingled with other SRPS assets provided separate records are maintained. The board indicates that there is no cost associated with this proposal.

The joint committee will sponsor the requested legislation.

Optional Allowances – Designated Beneficiaries

A retiree of one of the several systems (with the exception of the Legislative Pension Plan) has the choice at the time of retirement to elect to receive either the basic allowance with no survivor benefit or an optional method of distribution that results in a reduced benefit while the retiree is living in order to provide for a survivor benefit to a designated beneficiary at the retiree's death. Among the six optional allowances available to retirees, four are dual-life annuities and two are single-life annuities. Section 21-402 of the State Personnel and Pensions Article specifically provides that if a retiree selects a dual-life annuity, the retiree may only designate one individual as the retiree's beneficiary. Conversely, any eligible retiree selecting a single-life annuity (Option 1 and Option 4²) may designate multiple beneficiaries to share the survivor benefit equally.

Staff for the State Retirement Agency (SRA) recently noticed that the language currently in the State Personnel and Pensions Article governing Option 1 states that a retiree of the Judges' Retirement System (JRS) may designate more than one beneficiary if this option is selected. Because all eligible retirees, regardless of their system, may select multiple beneficiaries under Option 1 and Option 4, the board believes that only referencing retirees of JRS may create confusion for all other retirees selecting these options. To address this potential confusion, the board recommends removing the language in the State Personnel and Pensions Article that specifically references only JRS retirees selecting multiple beneficiaries under Option 1. The board indicates that there is no cost associated with this proposal.

² **Option 1** guarantees monthly payments equal to the total of the present value of the retiree's basic allowance at the time of retirement. If the retiree dies before receiving monthly payments equal to the present value of this benefit, the remaining amount is paid in a single payment to the retiree's designated beneficiary. **Option 4** guarantees the return of a retiree's accumulated contributions at the time of retirement. If the retiree dies before recovering the full amount of accumulated contributions, the remainder is paid in a single payment to the retiree's designated beneficiary.

The joint committee will sponsor the requested legislation.

References to the Reformed Contributory Pension Benefit

When the Reformed Contributory Pension Benefit (RCPB) was created under Title 23, Subtitle 2, Part IV of the State Personnel and Pensions Article in 2011, reference to this new tier of the EPS was inadvertently omitted from various sections of this article. Staff has found three provisions addressing eligibility service in Title 23 (§§ 23-302, 23-303, and 23-304) that should have been amended in 2011 to include reference to the RCPB. The board recommends these sections be amended to now include the RCPB. The board indicates that there is no cost associated with this proposal.

The joint committee will sponsor the requested legislation.

Teachers' Retirement and Pension System – Reemployment of Retirees – Clarification

Chapter 189 of 2015 repealed provisions in the Teachers' Retirement and Pension System (TRS and TPS) of the State Personnel and Pensions Article that allowed the superintendent of each school system to exempt up to 15 retired teachers (depending on the total number of teachers in the county) from the reemployment earnings limitation, if the teachers were hired to either:

- teach any subject or provide educational services at an eligible school, as described above; or
- provide educational services or teach in an area of critical shortage, special education, or a class for students with limited English proficiency in any school in the county.

Chapter 189 broadened this exemption by stating that local school superintendents may hire up to 5 TRS or TPS retirees to work in any position at any public school and be exempt from the reemployment earnings limitation. Discussions during the bill hearings for Chapter 189 suggest that the legislature intended to allow each superintendent the option to hire a total of 5 retirees combined between TRS and TPS. This is consistent with the intent of the legislature with regard to the provisions repealed by Chapter 189 that authorized each local school system to hire a total of up to 15 additional TRS and TPS retirees, combined. However, as drafted, Chapter 189 has raised questions by local school systems as to whether each school superintendent may hire up to 10 retirees, total (5 from TRS and 5 from TPS).

The board seeks clarification from the joint committee as to their intent with regard to Chapter 189. The board has asked the joint committee to clarify whether local schools systems can hire a total of 5 or 10 retirees.

The joint committee will sponsor legislation to clarify the limit is five reemployed retirees per school combined between TRS and TPS.

Correctional Officers' Retirement System – Clifton T. Perkins Maximum Security Guards

Chapter 596 of 1982 transferred the maximum security attendants at Clifton T. Perkins Hospital Center from the Employees' Retirement and Pension Systems (ERS and EPS) to the Correctional Officers' Retirement System (CORS), allowing these individuals to retire with 20 years of service. However, the bill, as it was drafted in 1982, inadvertently eliminated many of the benefits these individuals had earned, including vesting after accruing 5 years of service in ERS or EPS. To address the issue of vesting, Chapter 474 of 1983 added language similar to the vesting language in ERS for the security attendants, stating that these individuals would be entitled to retire from CORS at age 60 if they had accrued at least 5 years of service. This bill also added additional vesting language stating all other members of CORS would be eligible to retire at age 55 if they had accrued at least five years of service in CORS.

Other than stating that Chapter 474 intended to restore many of the benefits that the security attendants had enjoyed in ERS and EPS, the legislative history for this section of law is silent as to why age 60 was set for all future security attendants and not just limited to those transferring in 1982 from ERS and EPS. Any new security attendants joining CORS after 1982 would not have accrued any previous benefit in ERS or EPS, yet due to the overly broad language included in Chapter 474, these individuals would be required to work an additional five years to age 60, beyond the normal service retirement age for all other members of CORS, at age 55.

This discrepancy in normal retirement age remains in effect in CORS today. Staff for SRA believes based on the legislative history of this provision that the legislature in 1983 only intended to make those attendants transferring from ERS and EPS to CORS whole with regard to the benefits they had accrued prior to transferring to CORS and did not intend to bind future generations of security attendants to this higher normal retirement age.

Accordingly, the board recommends changing the normal retirement age for maximum security attendants at Clifton T. Perkins Hospital Center to age 55 to bring this small group of individuals in line with all other members of CORS. The board indicates that it anticipates any cost resulting from the change would be minimal to SRPS.

The joint committee will sponsor the requested legislation.

***Ex-officio* Trustees – Designee Appointment**

Presently, § 21-104(a) of the State Personnel and Pensions Article states that the Treasurer, serving as an *ex-officio* trustee, may appoint a deputy treasurer as the Treasurer's designee to the board. However, the statute is silent with regard to whether the Comptroller and the Secretary of Budget and Management, also both serving as *ex-officio* trustees, may appoint deputies as their designees to the board. While membership on the board and the Investment Committee is established by statute, membership on other subcommittees of the board (Administrative, Corporate Governance, and Audit Committee) are established by the board through its Operations

Policy. It is this point that distinguishes these subcommittees from the Investment Committee and is the basis for the board's authority to determine the membership of the Administrative, Corporate Governance, and Audit Committees, and not the membership of the Investment Committee. Presently, the Deputy Treasurer and the Deputy Secretary of Budget and Management have represented the Treasurer and Secretary as their designees to the Administrative Committee of the board, respectively. However, because these nontrustee members of the board's subcommittees are not provided for in statute, the definition of fiduciary under § 21-201(b)(2) does not include these individuals.

To address this issue, the board of Budget and Management is recommending legislation that would explicitly grant the Treasurer, Comptroller, and Secretary the authority to appoint either a deputy or chief of staff as their designees. Additionally, the board also recommends amending the definition of fiduciary under § 21-201(b)(2) to include members of all committees of the board, not just the Investment Committee. Expanding the definition of fiduciary to include the other committees of the board would clarify that fiduciary standards and liability for a breach of fiduciary duty would also be conferred on nontrustee members of the committees. The board indicates that there is no cost associated with this proposal.

The joint committee will sponsor the requested legislation.

Ordinary Disability Retiree Earnings Limit

Most retirees receiving an ordinary disability retirement allowance are subject to an earnings limitation if they are reemployed while they are under normal retirement age and employed by a participating employer at an annual compensation that is \$5,000 more than the difference between the retiree's retirement allowance at the time of retirement and the retiree's average final compensation. If a retiree's annual compensation exceeds this earnings limit, the board is required to reduce the retiree's pension \$1 for every \$2 if the retiree is reemployed within the first 10 years following retirement and then \$1 for every \$5 if the retiree is reemployed after being retired more than 10 years. This offset is applied irrespective of what the retiree's average final compensation was at the time of retirement. For example, a retiree who was awarded an ordinary disability at age 30, had an average final compensation of \$24,000 and a basic allowance of \$16,000, only could earn up to \$13,000, annually, before exceeding his earnings limitation (\$24,000 + \$5,000 - \$16,000). If this same retiree was reemployed by a participating employer at an annual salary of \$30,000, the retiree would exceed the earnings limitation by \$17,000 (\$30,000 - \$13,000) and would be subject to an \$8,500 offset to the retiree's ordinary disability benefit (50% of \$17,000).

The board is recommending that the earnings limitation provision for ordinary disability benefits be amended to provide for an exemption from the limitation and corresponding offset if the retiree's average final compensation (AFC) at the time of retirement is less than \$25,000. This exemption would be consistent with the exemption in place for retirees receiving a service retirement allowance from the employees', teachers', or correctional officers' systems. Staff reports that in the past five years, less than 10 retirees per year would have been exempt from the

earnings limitation if the exemption had been \$25,000 or less. The board indicates that it anticipates any cost to the SRPS would be minimal.

The joint committee will sponsor the requested legislation.

Disability Benefits Study

The 2015 *Joint Chairmen's Report* requested SRA and DLS to review the disability process and benefits in Maryland, examine how Maryland's benefits compare with other states, and report any findings and recommendations to the joint committee.

Eligibility Requirements for Disability Retirement in Maryland

For most members in SRPS, there are two types of disability retirement benefits that may be awarded if an injury or medical condition permanently prevents a member from performing the member's current job duties: (1) ordinary disability; and (2) accidental disability.

A member is eligible to receive an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the normal duties of the member's position. With limited exceptions, a member must apply for an ordinary disability retirement no later than four years after paid employment ends.

In most systems, a member is eligible to receive an accidental disability retirement allowance if during the course of job performance, a member becomes totally and permanently disabled as the direct result of an accidental injury, and the medical board certifies that the member is totally and permanently disabled. Additionally, in LEOPS and the State Police Retirement System, a member can be eligible for an accidental disability retirement allowance if the member becomes totally and permanently incapacitated for duty as a result of an injury *arising out of* performance of the job, as well as an injury in the *actual* performance of the job. For members of the Employees' and Teachers' Combined Systems, a member must apply for an accidental disability retirement within five years of the date of the accident. However, for members of the CORES, LEOPS, and the State Police Retirement System, there is no time limit to file for accidental disability. Another difference for members of the State Police Retirement System is that the allowance is called a special disability retirement allowance rather than an accidental disability retirement allowance.

Disability Retirement Benefits in Maryland

For members of the Employees' and Teachers' Pension Systems, the ordinary disability retirement allowance is equal to the normal service retirement allowance if the member is at least 62 or 65 years of age on the date of retirement, depending on the date of hire. Otherwise, the allowance equals the normal service retirement allowance computed as though the member had continued to accrue service credits until age 62 or 65 without any change in the rate of earnable compensation. For members of the State Police Retirement System, the ordinary disability retirement allowance is equal to the greater of (1) the normal service retirement allowance; or (2) 35% of the member's average final compensation at the time of disability.

For members of the Employees' and Teachers' Pension Systems and the State Police Retirement System, the accidental disability retirement allowance is equal to the lesser (1) the member's average final compensation at the time of disability; or (2) the sum of two-thirds of the member's average final compensation at the time of disability plus an annuity of accumulated member contributions. With the exception of the annuity, the accidental disability retirement allowance is not taxable.

Disability Process in Maryland

To apply for a disability retirement, a claimant must provide specified documentation; when all of the required documentation is provided, SRA assigns the claim to one of four medical boards based on the physicians' areas of expertise. The medical board reviews the claim based on the documentation, but may order an independent medical evaluation at SRA's expense. After reviewing the documentation, the medical board may find that the member is not disabled or is disabled and, in that case, may recommend approval of ordinary or accidental disability.

A claimant may accept the medical board's determination or may file a written request for reconsideration within 30 days. If a reconsideration is requested timely, the medical board must reconsider the claimant's file. After the medical board makes a decision on the request for reconsideration, the medical board submits a certification to the Board of Trustees, which the board may accept or reject; the claimant is then notified of the Board of Trustees' decision.

A claimant may appeal the Board of Trustees' decision to the Office of Administrative Hearings (OAH) within 30 days. At OAH, an administrative law judge hears the case and then submits a proposed decision to SRA and the claimant. Each party may file exceptions to the proposed decision within 15 days. If there is no issue of whether the claimant is disabled or not, the decision is forwarded to the Board of Trustees for review. If the issue is whether the claimant is disabled, the decision is forwarded to medical board to review.

Thereafter, the decision of the medical board is forwarded to the Board of Trustees for final review, also known as an exceptions hearing. At the exceptions hearing, the Board of Trustees may question each party but may not accept additional evidence or hear testimony of witnesses. If a claim is denied by the Board of Trustees, the claimant is advised of the right to appeal to the

circuit court within 30 days. If a claim is approved, a claimant has 120 days to accept a disability retirement allowance.

In fiscal 2011, SRA approved 97.6% of disability cases. However, the rates of approval appear to be trending down slightly, with a 90.3% approval rate in fiscal 2014 and a 90.1% approval rate in fiscal 2015.

Review of Number of Disability Retirees and Payments by State

After reviewing the *Fiscal 2014 Comprehensive Annual Financial Reports* or other relevant reports for data on the number of retirees and benefits paid to them, DLS concluded that for fiscal 2014, Maryland had the highest percentage of disability retirees and ranked twelfth highest in the average amount paid to disability retirees.

Of the 47 states for which data was disaggregated by category of retiree, Maryland had the highest percentage of disability retirees at 11.67%. Five other states had more than 0.10% disability retirees, while six states had less than 0.2% disability retirees. Alaska had the lowest at 0.64%, and Louisiana had the average percentage of disability retirees at 5.49%.

DLS was not able to determine a clear pattern for the wide variation in percentage of disability retirees among states. Of the six states with the lowest percentage of disability retirees, two states require an annual medical follow up and four states authorize a medical follow up, if needed. However, two of the states with the highest percentage of disability retirees also require medical follow up. Also, while two of the states with the lowest percentage of disability retirees require claimants to apply for Social Security Disability Insurance program (SSDI), one of the states with the highest percentage of disability retirees requires approval for SSDI.

In the 42 states for which data was disaggregated by category of benefit payments, the average amount paid to disability retirees was \$17,923. Four states paid an average of more than \$30,000 to disability retirees annually while five states paid an average of less than \$10,000. Maryland paid an average of \$20,670, which was the twelfth highest.

DLS was also not able to determine a clear pattern for the wide variation in the amounts paid to disability retirees among states. The state with the highest average amount paid also had the third highest percentage of disability retirees. Interestingly, the state with the second highest average amount paid had the third lowest percentage of disability retirees.

Review of Disability Benefits by State

After reviewing the statutory provisions and member handbooks for state employees and state police or state highway patrol, DLS concluded that one common characteristic of disability benefits in other states is that disability benefits terminate or are suspended if an individual is no longer disabled. However, that is not the case in Maryland.

Of the 48 states in which non-work-related disability retirement benefits are provided for state employees, 19 states require service of more than five years, while 12 states require service of less than five years. Maryland is joined by 16 other states in requiring five years of service. For state police or state highway patrol employees, 16 states require service of more than five years, while 17 states require service of less than five years. Maryland is joined by 14 other states in requiring five years of service.

During the state review, two predominant criteria emerged for determining disability status: (1) incapacitated for further performance of duties of current job; and (2) unable to engage in any substantial gainful activity. Several states use a two-tiered definition in which short-term benefits are based on incapacity to perform current duties, and long-term benefits are based on inability to engage in substantial gainful activity.

For non-work-related disabilities for State employees, Maryland and 21 other states use the standard of incapacitated for further performance of duties of current job, while 13 states and SSDI use the standard of unable to engage in any substantial gainful activity. Ten states use a two-tiered definition in which short-term benefits are based on incapacity to perform current duties, and long-term benefits are based on inability to engage in substantial gainful activity.

For non-work related disabilities for state police and state highway patrol employees, Maryland and 32 other states use the standard of incapacitated for further performance of duties of current job, while 6 states and SSDI use the standard of unable to engage in any substantial gainful activity. Five states use a two-tiered definition in which short-term benefits are based on incapacity to perform current duties, and long-term benefits are based on inability to engage in substantial gainful activity.

During the state review, three main benefit structures emerged: (1) normal retirement calculation using years of service and compensation at time of disability; (2) normal retirement calculation with service projected to normal retirement age; and (3) percentage of compensation at time of disability.

For non-work-related disabilities for state employees, 24 states use the first structure, 6 states, including Maryland, use the second structure, and 14 states use the third structure. For work-related disabilities for state employees, 5 states use the first structure, 4 states use the second structure, and 14 states, including Maryland, use the third structure.

For non-work-related disabilities for state police and state highway patrol employees, 20 states use the first structure, 8 states use the second structure, and 13 states, including Maryland, use the third structure. For work-related disabilities for state police and state highway patrol employees, 9 states use the first structure, 5 states use the second structure, and 15 states, including Maryland, use the third structure.

Issues and Recommendations

The study identified several issues related to the current process and benefits in Maryland, and DLS made recommendations regarding these issues.

Time Period for Filing for Ordinary Disability

Most members have four years after their paid employment ends to file for a disability retirement, but many other states have much shorter time periods, such as one or two years. Additionally, Maryland law requires a claim for workers' compensation for an occupational disease to be filed within two years. DLS recommended shortening this time period to two years.

The joint committee accepted the recommendation to shorten the time period for filing for ordinary disability to two years.

Time Period for Filing for Accidental Disability

Members of the Employees' and Teachers Systems must file for an accidental disability within five years of the date of the accident, but many other states have much shorter time periods, such as one or two years. Additionally, Maryland law requires a claim for workers' compensation for an accidental injury to be filed within two years. DLS recommended shortening this time period to two years.

Members of CORES, LEOPS and the State Police Retirement System have no time limit in which they must file for an accidental disability. For CORES, DLS recommended imposing a time limit of two years from the date of the accident. For LEOPS and the State Police Retirement System, DLS recommended imposing a time limit of two years from the date of the accident or diagnosis of the disabling condition.

The joint committee held all of the recommendations to shorten the time period or impose a time period for filing for accidental disability.

Time Period for Deferrals

Deferrals from the medical board cannot exceed six months, but doctors on the medical board believe it may take up to one year to determine if an individual has reached maximum medical improvement. This requirement is in regulations only, and SRA has proposed regulations to implement this change.

No action was necessary by the joint committee.

Independent Medical Evaluations

In order to stay under the small procurement cap, SRA can pay only up to \$25,000 each year to each doctor that performs independent medical evaluations. This amount can be reached quickly, and then SRA has to find additional doctors willing to do independent medical evaluations. DLS recommended raising the small procurement cap to \$50,000 for SRA.

The joint committee accepted the recommendation to raise the small procurement cap to \$50,000 for SRA.

State Medical Director

The State Medical Director makes a determination of whether an employee is able to work at the present time based on the employee's complaints about their health. The State Medical Director is not making a determination of whether the employee is permanently disabled. Therefore, the State Medical Director's determination sometimes conflicts with the medical board's determination. DLS recommended requiring a disclaimer on the form completed by the State Medical Director and the SRA application for disability that the State Medical Director's determination that an employee is unable to work at the present time is not a determination of disability by SRA.

The joint committee held this item and asked staff to find another way to implement the spirit of the recommendation.

Final Decision Making Authority on Disability Appeals

Based on a recommendation by an *ad hoc* committee that studied this issue, the Board of Trustees voted on October, 20, 2015, to delegate final decision making authority over disability appeals to OAH. This will allow a party to file an appeal with the circuit court directly from OAH instead of requiring the extra step of an exceptions hearing before the Board of Trustees. Since 2010, the board has upheld the administrative law judge's proposed decision 126 times whereas the board rejected the proposed decision only 12 times. SRA has proposed regulations to implement this change.

No action was necessary by the joint committee.

Eligibility for Ordinary Disability

Of the states examined, 19 states require service of more than 5 years for disability benefits eligibility for non-work-related injuries. DLS recommended increasing the vesting requirement for ordinary disability from 5 years to 10 years of service.

The joint committee rejected the recommendation to increase the vesting requirement for ordinary disability from 5 years to 10 years of service.

Ordinary Disability – Projection of Service Credit

Under current law, an ordinary disability retirement allowance is calculated using a projection of service credit to normal retirement age. For example, in the Employees' and Teachers' Systems, normal retirement age is 62 for members hired before July 1, 2011 (alternate contributory pension selection (ACPS)) and age 65 for members hired on or after July 1, 2011, (reform). This results in members in the reformed plan having more projected service than ACPS members. DLS recommended altering the projection of service for ordinary disability to projection of service credit to first eligibility for normal retirement.

The joint committee accepted the recommendation to project service credit for ordinary disability to first eligibility for normal retirement.

Two-Stage Process for Ordinary Disability

DLS recommended a two-stage process for ordinary disability that would provide for an initial period of short-term disability. Following the short-term disability period, an individual would be required to reapply for long-term disability.

The joint committee rejected the recommendation of a two stage process for ordinary disability.

Accidental Disability – Annuity of Accumulated Contributions

In an ordinary disability retirement and in a normal service retirement, the retiree's accumulated contributions are used to help pay for the retirement allowance the member receives. In an accidental disability retirement, the retiree receives a retirement allowance of two-thirds of AFC plus an annuity of their accumulated contributions. DLS recommended repealing the annuity of accumulated contributions for accidental disability retirees, so the benefit would be only two thirds of AFC.

The joint committee held the recommendation to repeal the annuity of accumulated contributions for accidental disability retirees.

Terminology for Types of Disability Retirement

In the State Police Retirement System, a disability that occurred in the line of duty is called a "special disability" but in all of the other systems it is called an accidental disability. Many other states use the terms "line-of-duty" and "non-line-of-duty" to delineate between work-related and non-work-related disability. DLS recommended changing the terminology in Maryland to "line-of-duty" and "non-line-of-duty" for all systems.

The joint committee accepted the recommendation to change the terminology in Maryland to "line-of-duty" and "non-line-of-duty" for all systems.

Review of Disability Status

Under current law, SRA is not authorized to review disability status and suspend benefits if an individual is no longer disabled. DLS recommended authorizing SRA to review disability status and suspend benefits if an individual is no longer disabled.

The joint committee accepted the recommendation to authorize SRA to review disability status and suspend benefits if an individual is no longer disabled.

Effective Date for Changes to Disability Benefits

DLS recommended that changes to disability benefits be tied to an application for disability first submitted after the effective date of the bill.

The joint committee accepted the recommendation to tie changes to disability benefits to applications first submitted after the effective date of the bill.

Pension Forfeiture Study

Senate Bill 165 of 2015 would have implemented benefit forfeiture for certain constitutional officers who are convicted of a crime that is related to the constitutional officer's public duties and responsibilities and for which the penalty may be incarceration of one year or more. The bill also allowed SRPS to recover from an individual's accumulated contributions any amounts paid to an individual after a forfeiture is ordered. The Senate Budget and Taxation Committee's Pension Subcommittee referred the issue of benefit forfeiture to interim study and a report to the Joint Committee on Pensions.

The report to the joint committee addressed a number of issues to be considered when regarding the implementation of a benefit forfeiture process. The report also included a review of benefit forfeiture legislation in other states. A number of other states have laws addressing the consequences on an individual's retirement benefits from a public system when the individual commits certain crimes. The approach among the states varies with respect to the individuals subject to those consequences, the applicable crimes that trigger those consequences, and the severity of those consequences. Twenty-nine states have laws directing forfeiture or reduction of retirement benefits when an individual is convicted of a crime. Some states have enacted laws that not only address the forfeiture of benefits but also address in detail the process by which a forfeiture is carried out. Other states have very broad provisions that leave much unsaid about the process. A handful of states do not have a benefit forfeiture *per se*, but do allow benefits to be offset to pay restitution connected with the conviction.

The report identified issues that should be addressed if a benefit forfeiture process is implemented. The report noted the generally broad protections afforded retirement savings in both the United States and currently in the Maryland SRPS. To implement a benefit forfeiture, the

crimes that would qualify to trigger a forfeiture would need to be specified, as well as whether those crimes would need to be committed in connection with the individual's public duties. The public employment positions to which a forfeiture would apply would also need to be specified. The earned service credit that would be subject to forfeiture would need to be specified, including the application of the forfeiture to service credit earned prior to the enactment of legislation and service credit earned prior to the commission of a qualifying crime. Finally, the scope of a forfeiture (full or partial), the extent of its application (whether to preserve benefits for spouses and dependents), the process for initiating and enforcing a forfeiture, and the administrative burdens of implementing a forfeiture are all issues that would need to be clarified.

The joint committee discussed the issues arising out of benefit forfeiture. The joint committee did not elect to sponsor legislation on the topic for the 2016 legislative session but encouraged the introduction of legislation to foster further discussion of this topic.



Maryland State Retirement and Pension System

Results of the
June 30, 2015 Actuarial Valuation
For Fiscal 2017

November 4, 2015

Appendix 1



Purpose of the Actuarial Valuation

- ◆ Measure the financial position of SRPS
- ◆ Provide the Board with State and PGU contribution rates for certification:
 - ▶ Allocate investment income among pools within Systems
 - ▶ Work closely with SRA staff exchanging and reconciling information
 - ▶ Determine amortization payments
- ◆ Determine actuarial and statutory contribution rates with reinvested savings for FY 2017
- ◆ Provide disclosure information for financial reporting
 - ▶ Provided by separate GASB 67 and 68 valuations
- ◆ Analyze aggregate experience over the last year



Funding Objectives

- ◆ Intergenerational equity with respect to plan costs
- ◆ Stable or increasing ratio of Assets to Liabilities
- ◆ Stable pattern of contribution rates

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Variables Affecting Valuation Results

- ◆ Benefits (Retirement, Disability, Survivor)
- ◆ Actual past experience
- ◆ Legislative Changes
 - ▶ 2015 General Assembly passed HB 72
 - For FY 2017-2020, 50% of the budget surplus in excess of \$10 million, up to a maximum of \$50 million, would be made as an additional contribution to SRPS
 - ▶ 2015 General Assembly reduced the schedule of reinvested savings beginning with FY 2016 and eliminated the corridor funding method for TCS and ECS beginning with FY 2017
 - ▶ 2011 General Assembly reforms result in a gradually decreasing normal cost rate
- ◆ Assumption Changes
 - ▶ Changes to economic and demographic assumptions based on the 2010-2014 Experience Study beginning with the June 30, 2015 actuarial valuation
 - Valuation assumptions updated to only include a provision for administrative expenses through an additional explicit contribution. Administrative expenses should not be offset from the contribution amounts calculated in the annual actuarial valuations. *

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Variables Affecting Valuation Results

◆ Funding Policy

▶ State Systems

- 25-year closed amortization of unfunded actuarial accrued liability for each State System, ending in FY 2039 (23 years remaining in 2015 valuation)
- Elimination of the corridor funding method for TCS and ECS beginning with the FY 2017 contribution
 - The statutory rate will be equal to the actuarial rate for all Systems

▶ Municipal Systems

- ECS: Separate 25-year closed period amortization bases, average amortization period over 100 years. The Board is recommending a legislative change to the amortization.
- Single period closed amortization periods for LEOPS and CORS. 24 years remaining for LEOPS and 31 years remaining for CORS in 2015 valuation.

◆ Actuarial Audit

▶ Most audit recommendations were incorporated into the June 30, 2015 valuation

- Consistent COLA application between active, retired, and terminated vested members for Judges and Legislators
- Projected service for Ordinary Disability benefits (not material)
- COLA timing for ECS, State Police, and LEOPS



Reinvested Savings

Legislation passed in 2015 by the General Assembly further reduced the amount MSRPS would receive in reinvested savings.

Fiscal Year	Original Schedule	2014 Reduced Schedule	2015 Reduced Schedule*
2015	\$300M	\$100M	\$100M
2016	\$300M	\$150M	\$75M
2017	\$300M	\$200M	\$75M
2018	\$300M	\$250M	\$75M
2019 & After	\$300M	\$300M, until the combined funded ratio reaches 85% and the corridor is fully phased out	\$75M, until the combined funded ratio reaches 85%

*Statutory budgeted rate equal to actuarial rate for TCS and ECS beginning in FY 2017.

6 There will be possible additional funds in FY 2017 from the sweeper amendment.



Reinvested Savings

Effect of reduced reinvested savings and corridor elimination on projected funded ratios and contribution requirements (for combined state systems):

Funded Ratio				Contribution (\$ millions)		
Year	2014 Schedule	2015 Schedule		2014 Schedule	2015 Schedule	
		Old Assum.	New Assum.		Old Assum.	New Assum.
2016	70.7%	70.6%	69.0%	\$1,850	\$1,775	\$1,775
2017	72.5%	72.2%	70.6%	\$1,961	\$1,855	\$1,904
2018	74.1%	73.5%	71.8%	\$2,068	\$1,910	\$1,961
2019	75.0%	74.1%	72.3%	\$2,142	\$1,922	\$1,981
2026	84.2%	81.7%	80.5%	\$2,275	\$2,238	\$2,317
2027	85.5%	82.9%	81.7%	\$2,291	\$2,284	\$2,363
2028	86.8%	84.1%	83.0%	\$2,305	\$2,331	\$2,410
2029	87.8%	85.3%	84.4%	\$2,017	\$2,378	\$2,458
2030	88.8%	86.6%	85.7%	\$2,064	\$2,424	\$2,504
Total 2016 - 2039				\$52,676	\$54,972	\$56,626

Total contributions from 2016 to 2039 are \$2.3 billion more under the reduced schedule (based on pre-experience study assumptions). From projections based on the June 30, 2014 valuation. Contributions include portion contributed by TCS Local Employers. "New Assum." column reflects 2.68% investment return in FY 2015.



Primary Assumptions & Methods

- ◆ Actuarial assumptions based on the 2010-2014 experience study (first used in 2015 Valuation)
- ◆ June 30, 2015 Valuation Assumptions
 - ▶ Economic Assumptions
 - 7.55% investment return; 3.20% payroll growth; 2.70% CPI
 - 2.29% COLA, 2.68% COLA, 2.70% COLA for service where COLA is capped at 3%, 5% or not capped, respectively
 - 1.49% COLA for service earned after July 1, 2011 where COLA is capped at 2.5% in years when the System earns at least the investment assumption or capped at 1% in years when the System earns less than the investment assumption
 - No phase down of assumptions (immediate change with the 2015 valuation)
 - ▶ Demographic Assumptions
 - RP 2014 mortality tables with generational mortality projection using scale MP-2014
 - Calibrated to MSRPS experience
 - Retirement, termination, disability and seniority and merit salary increase rates based on plan experience



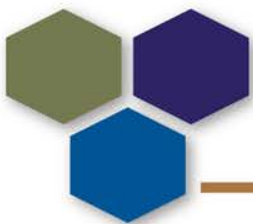
Primary Methods

- ◆ The valuation results are developed using:
 - ▶ Entry Age Normal Actuarial Cost Method
 - ▶ 5-year asset smoothing
 - ▶ 20% market value collar on assets
 - ▶ Amortization policy (entire unfunded liability amortized by FY 2039)
 - ECS Municipal still uses separate amortization bases
 - Single equivalent amortization period for pooled unfunded liability is over 100 years
 - The Board is recommending legislation to change the amortization method to change this



Demographic Data

Statistics as of June 30					
2015				2014	% Chg
Number Counts	State	PGU	Total	Total	
Active Members	168,034	25,566	193,600	193,522	0.0%
Vested Former Members	45,923	6,846	52,769	52,133	1.2%
Retired Members	130,961	16,889	147,850	142,887	3.5%
Total Members	344,918	49,301	394,219	388,542	1.5%
Total Valuation Payroll (\$ in Millions)	\$9,946.0	\$1,117.9	\$11,064.0	\$10,803.6	2.4%
Active Member Averages					
Age	45.8	48.8	46.2	46.3	-0.1%
Service	12.6	11.7	12.5	12.6	-0.6%
Pay	\$ 59,191	\$ 43,727	\$ 57,149	\$ 55,826	2.4%
Total Retiree Benefits (\$ in Millions)	\$3,092.0	\$ 231.2	\$ 3,323.2	\$ 3,147.7	5.6%
Average Retiree Benefit	\$ 23,610	\$ 13,689	\$ 22,477	\$ 22,029	2.0%



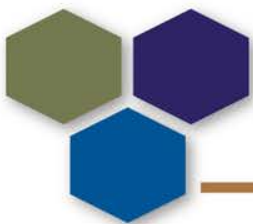
Year to Year Comparison of Results: STATE Systems

(STATE ONLY except Total Funded Ratios, \$ in Millions)

	Teachers' Combined System *	Employees' Combined System *	State Police	Judges	LEOPS	Total
FY 2017 Contribution Rate	15.79%	18.28%	81.40%	46.56%	39.60%	17.58%
FY 2017 Contr. Rate (w. Reinv. Savings)	16.55%	18.93%	82.50%	46.56%	40.72%	18.32%
FY 2016 Contribution Rate	15.71%	16.38%	78.91%	40.70%	39.77%	16.83%
FY 2016 Contr. Rate (w. Reinv. Savings)	16.49%	17.04%	80.08%	40.70%	40.95%	17.58%
2015 Actuarial Value of Assets	\$ 27,995	\$ 11,840	\$ 1,314	\$ 417	\$ 588	\$ 42,154
2015 Unfunded Actuarial Liability	\$ 10,939	\$ 7,068	\$ 789	\$ 95	\$ 370	\$ 19,260
2014 Unfunded Actuarial Liability	\$ 10,815	\$ 6,783	\$ 725	\$ 70	\$ 357	\$ 18,750
Funded Ratios						
2015 (Total includes Municipal)	71.9%	62.6%	62.5%	81.5%	61.4%	69.7%
2014 (Total includes Municipal)	70.7%	61.9%	63.1%	84.7%	60.2%	68.7%

* Includes effect of corridor in FY 2016 only.

Municipal Actuarial Value of Assets of \$4,016 Million and Municipal Unfunded Actuarial Liability of \$851 Million are also included in the development of the Total Funded Ratio of 69.7%. State only 2015 Funded Ratio is 68.6%. FY 2016 contributions reflect the reduced reinvested savings schedule per new legislation.



Year to Year Comparison of Results: MUNICIPAL Systems

(MUNICIPAL ONLY, \$ in Millions)

	Employees' Combined System				LEOPS	CORS	Total
FY 2017 Basic Contribution Rate	4.64%				31.18%	9.81%	5.93%
∞ FY 2016 Basic Contribution Rate	5.00%				31.94%	10.43%	6.32%
2015 Actuarial Value of Assets	\$	3,776	\$	220	\$	21	\$ 4,016
2015 Unfunded Actuarial Liability	\$	720	\$	131	\$	1	\$ 851
2014 Unfunded Actuarial Liability	\$	729	\$	133	\$	1	\$ 863
Funded Ratios							
2015	84.0%				62.8%	96.3%	82.5%
2014	82.8%				59.3%	95.6%	81.2%

The FY 2017 Basic Employer Rate for ECS would be approximately 1.35% of pay higher based on amortizing the pooled unfunded liability over a 25-year period.



Reconciliation of Employer Contribution Rates

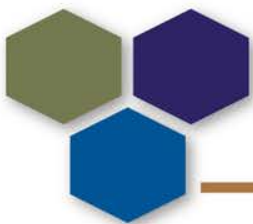
(STATE ONLY)

Teachers' Combined System	Employees' Combined System	State Police	Judges	LEOPS	Total
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Actuarially Determined Calculations

29	FY2016 Contribution Rate	16.15%	17.89%	78.91%	40.70%	39.77%	17.61%
	Change due to Investment Return	-0.41%	-0.35%	-1.15%	-0.76%	-0.45%	-0.40%
	Change due to Demographic Experience	-0.42%	-0.07%	-0.73%	0.28%	0.20%	-0.30%
	Change due to Corridor	0.13%	0.26%	0.00%	0.00%	0.00%	0.17%
	Change due to Other	-0.24%	-0.13%	-2.15%	0.11%	-0.75%	-0.20%
	Change due to Assumption Changes	<u>0.58%</u>	<u>0.68%</u>	<u>6.52%</u>	<u>6.23%</u>	<u>0.83%</u>	<u>0.70%</u>
	FY2017 Contribution Rate	15.79%	18.28%	81.40%	46.56%	39.60%	17.58%
	Reinvested Savings Rate	<u>0.76%</u>	<u>0.65%</u>	<u>1.10%</u>	<u>0.00%</u>	<u>1.12%</u>	<u>0.74%</u>
	Final FY2017 Total Budgeted Contr. Rate	16.55%	18.93%	82.50%	46.56%	40.72%	18.32%

*Other includes impact on contribution rate of change in total base payroll.
Sources of change due to demographic experience described on slides 23 and 24.*



Budgeted Employer Contribution Rates Year to Year Comparison

(STATE ONLY)

	Teachers' Combined System	Employees' Combined System	State Police	Judges	LEOPS	Total
FY 2017 Contribution Rates						
Employer Contribution Rate	15.79%	18.28%	81.40%	46.56%	39.60%	17.58%
30 Reinvested Savings Rate^	<u>0.76%</u>	<u>0.65%</u>	<u>1.10%</u>	<u>0.00%</u>	<u>1.12%</u>	<u>0.74%</u>
Total Contribution Rate	16.55%	18.93%	82.50%	46.56%	40.72%	18.32%
FY 2016 Contribution Rates						
Employer Contribution Rate	15.71%	16.38%	78.91%	40.70%	39.77%	16.83%
Reinvested Savings Rate^	<u>0.78%</u>	<u>0.66%</u>	<u>1.17%</u>	<u>0.00%</u>	<u>1.18%</u>	<u>0.75%</u>
Total Contribution Rate	16.49%	17.04%	80.08%	40.70%	40.95%	17.58%
Year over Year Change	0.06%	1.89%	2.42%	5.86%	-0.23%	0.74%

^ Rate calculated based on allocated reinvested dollars and FY 2017 projected payroll. It is our understanding that the Retirement Agency will monitor contributions to ensure that the System receives the proper amount of reinvested savings during Fiscal Year 2017.

FY 2016 reinvested savings rates reflect the reduced reinvested savings schedule per new legislation.



Calculation of Contributions Attributable to Reinvestment Amounts

(STATE ONLY, \$ in Millions)

	Teachers' Combined System	Employees' Combined System	State Police	Judges	LEOPS	Total
% of Total Pension Reform Savings#	67.7%	29.4%	1.4%	0.0%	1.5%	100.0%
Reinvested Savings	\$ 50.8	\$ 22.0	\$ 1.1	\$ -	\$ 1.2	\$ 75.0

FY 2017 Contributions

31	Illustrated Dollar Contributions	\$ 1,054.4 *	\$ 621.1	\$ 77.7	\$ 21.8	\$ 40.9	\$ 1,815.9 *
	Reinvested Savings	\$ 50.8	\$ 22.0	\$ 1.1	\$ -	\$ 1.2	\$ 75.0
	Total Illustrated Contributions	\$ 1,105.2	\$ 643.1	\$ 78.8	\$ 21.8	\$ 42.1	\$ 1,890.9

FY 2016 Contributions

	Illustrated Dollar Contributions	\$ 1,025.0 *	\$ 547.3	\$ 71.1	\$ 18.1	\$ 38.9	\$ 1,700.4 *
	Reinvested Savings	\$ 50.8	\$ 22.0	\$ 1.1	\$ -	\$ 1.2	\$ 75.0
	Total Illustrated Contributions	\$ 1,075.8	\$ 569.3	\$ 72.2	\$ 18.1	\$ 40.1	\$ 1,775.4
	Year over Year Change	\$ 29.4	\$ 73.8	\$ 6.6	\$ 3.7	\$ 2.0	\$ 115.5

**Contribution dollars include TCS Local Employer Portion.*

Based on Calculations from June 30, 2011 Valuation.

FY2017 Contribution based on payroll as of June 30, 2015, projected to FY2016 for TCS and FY2017 for all other systems. FY2017 Contribution for TCS is \$1,139 Million based on payroll projected to FY2017.

FY2016 Contribution based on payroll as of June 30, 2014, projected to FY2015 for TCS and FY2016 for all other systems. FY2016 Contribution for TCS is \$1,165 Million based on payroll projected to FY2016. FY2016 contributions reflect the reduced reinvested savings schedule per new legislation.

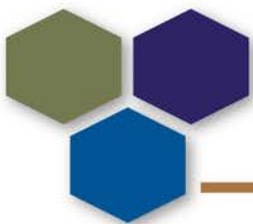


Recommended Fiscal Year 2017 Budgeted Contributions: STATE

(STATE ONLY, \$ in Millions)

System	Budgeted Rate		Illustrated Dollar Contributions	
	WITHOUT	WITH	WITHOUT	WITH
	Reinvest. Savings	Reinvest. Savings	Reinvest. Savings	Reinvest. Savings
TCS	15.79%	16.55%	\$ 1,054	\$ 1,105
ECS	18.28%	18.93%	621	643
State Police	81.40%	82.50%	78	79
Judges	46.56%	46.56%	22	22
LEOPS	39.60%	40.72%	41	42
Total	17.58%	18.32%	1,816	1,891
TCS Local Employer Portion			280	280
Total State Only Portion			1,536	1,611

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Projected Results: STATE

(Contribution excludes TCS Local Employer Portion)

Year	Funded Ratio	State Contribution including Reinvested Savings (\$ in Millions)
2017	70.8%	\$1,611
2018	72.0%	\$1,674
2019	72.6%	\$1,692
2020	73.7%	\$1,726
2021	74.8%	\$1,802
Year 80% Funded	2026	
Year 85% Funded	2030	

Projections are based on the valuation results as of June 30, 2015.



Recommended Fiscal Year 2017 Budgeted Contributions: MUNICIPAL

(MUNICIPAL ONLY)

System	Basic Rate
	Current Funding Policy
ECS	4.64%
LEOPS	31.18%
CORS	9.81%



Allocation of Contribution to Local Employers (Boards of Education)

◆ Allocation of Contributions to TCS

- ▶ Beginning in fiscal year 2013, local employers contribute a portion of the statutory normal cost contribution for the Teachers Combined System
- ▶ Normal cost contribution amounts for local employers for fiscal years 2013 through 2016 are defined in statute
- ▶ Beginning in fiscal year 2017, local employers will contribute the full normal cost contribution for their TCS employees

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Allocation of Contribution to Local Employers (Boards of Education)

Teachers Combined System

FY2017 Contribution (\$ in Millions)

			<u>Local</u>	
	<u>% of Pay</u>	<u>Total</u>	<u>Employers</u>	<u>State</u>
Employer Normal Cost	4.56%	\$ 304.5	\$ 279.8	\$ 24.7
UAAL Amortization	11.23%	749.9	-	749.9
Reinvested Savings	<u>0.76%</u>	<u>50.8</u>	<u>-</u>	<u>50.8</u>
Total	16.55%	\$ 1,105.2	\$ 279.8	\$ 825.4

FY2016 Contribution (\$ in Millions)

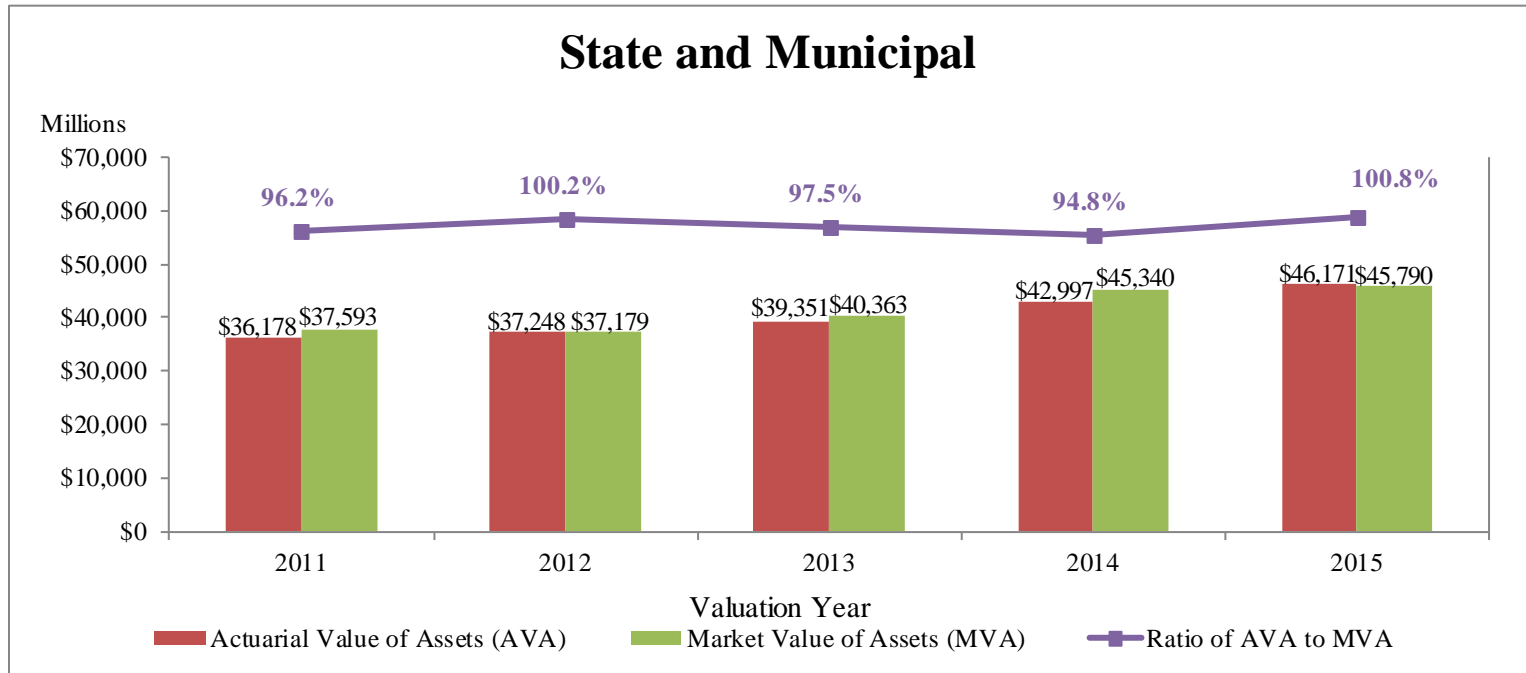
			<u>Local</u>	
	<u>% of Pay</u>	<u>Total</u>	<u>Employers#</u>	<u>State</u>
Employer Normal Cost	5.12%	\$ 334.0	\$ 254.8	\$ 79.2
UAAL Amortization*	10.59%	691.0	-	691.0
Reinvested Savings	<u>0.78%</u>	<u>50.8</u>	<u>-</u>	<u>50.8</u>
Total	16.49%	\$ 1,075.8	\$ 254.8	\$ 821.0

* Includes impact of corridor funding in FY 2016 only.

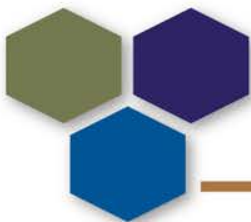
Amounts are taken from Senate Bill 1301.

FY 2016 contributions reflect the reduced reinvested savings schedule per new legislation.

Actuarial Value of Assets - (\$ Millions)



The actuarial valuation is not based directly upon market value, but rather uses a smoothed value of assets that phases in each year's gain or loss above/below the investment return assumption over 5 years.



Actuarial Value of Assets – (\$ Millions)

Phase In of Deferred Gains and Losses

	<u>Fiscal Year</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
1. Actuarial Value at July 1, 2014	\$	42,997.0				
2. Net Cash Flow		(747.8)				
3. Market Investment Return		1,197.7				
4. Expected Return		3,440.4				
5. Gain or loss (3-4)		(2,242.8)				
6. Amount for full recognition		3,440.4				
7. Phase-in amounts						
7a. From this year		(448.6)				
7b. From one year ago		525.2	\$ (448.6)			
7c. From two years ago		197.9	525.2	\$ (448.6)		
7d. From three years ago		(557.9)	197.9	525.2	\$ (448.6)	
7e. From four years ago		<u>764.4</u>	<u>(557.9)</u>	<u>197.9</u>	<u>525.2</u>	<u>\$ (448.6)</u>
8. Total Phase-ins		481.1	(283.4)	274.5	76.6	(448.6)
9. Final Value: 1+2+6+8		46,170.6				

There is a net loss of about \$0.38 Billion to be recognized in the future (\$0.35 Billion State and \$.03 Billion Municipal)



FY2015 Experience

The following items decreased or offset increases to the contribution rates:

1. Favorable recognized investment return on an actuarial value basis (9.20%)
2. Assumptions Changes (COLA and salary increases)
3. Favorable demographic and other experience
 - a) Lower salary increases than expected for continuing members for some Systems
 - b) Lower COLA than expected (1.622% for most retirees)
 - c) Increase in total active membership and base payroll
 - i. Higher payroll than expected leads to lower % of pay contribution for unfunded liability. Total payroll was expected to increase by 3.40% over last year and actual payroll changed as follows:
 - a) Teachers increased by 2.5%
 - b) Employees Combined increased by 2.0%
 - c) State Police increased by 6.3%
 - d) Judges increased by 5.4%
 - e) LEOPS increased by 6.0%
 - ii. Lower benefits for members participating in reformed Systems (hired on or after July 1, 2011)



FY2015 Experience

The following items increased the contribution rates:

1. Corridor funding method for Teachers and Employees
 - a) Actuarial rate increased due to contribution shortfall from corridor funding method in FY 2015
 - b) Budgeted rate increased due to elimination of corridor funding method and change to actuarial rate
2. Demographic assumption changes
 - a) Mainly due to change in mortality assumption to the RP 2014 mortality tables with generational mortality improvements

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Risk Measures Summary

State and Municipal (\$ in Millions)

Valuation Date (6/30)	(1) Accrued Liabilities (AAL)	(2) Market Value of Assets	(3) Market Value Unfunded AAL	(4) Valuation Payroll	(5) Market Value Funded Ratio (2)/(1)	(6) Retiree Liabilities (RetLiab)	(7) RetLiab / AAL (6)/(1)	(8) AAL / Payroll (1)/(4)	(9) Assets / Payroll (2)/(4)
2010	\$ 54,085	\$ 31,924	\$ 22,161	\$ 10,658	59.0%	\$ 28,590	52.9%	507.5%	299.5%
2011	55,918	37,593	18,325	10,479	67.2%	30,522	54.6%	533.6%	358.8%
2012	57,869	37,179	20,690	10,337	64.2%	32,779	56.6%	559.9%	359.7%
2013	60,060	40,363	19,697	10,478	67.2%	34,498	57.4%	573.2%	385.2%
2014	62,610	45,340	17,270	10,804	72.4%	36,077	57.6%	579.5%	419.7%
2015	66,282	45,790	20,492	11,064	69.1%	38,588	58.2%	599.1%	413.9%

(5). The Funded ratio is the most widely known measure of a plan's financial strength, but the trend in the funded ratio is much more important than the absolute ratio. The funded ratio should trend to 100%. As it approaches 100%, it is important to re-evaluate the level of investment risk in the portfolio and potentially to re-evaluate the assumed rate of return.

(6) and (7). The ratio of Retiree liabilities to total accrued liabilities gives an indication of the maturity of the system. As the ratio increases, cash flow needs increase, and the liquidity needs of the portfolio change. A ratio on the order of 50% indicates a maturing system.

(8) and (9) The ratios of liabilities and assets to payroll gives an indication of both maturity and volatility. Many systems have ratios between 500% and 700%. Ratios significantly above that range may indicate difficulty in supporting the benefit level as a level % of payroll.



Risk Measures Summary (Cont.)

State and Municipal (\$ in Millions)

Valuation Date (6/30)	(10) Portfolio StdDev	(11) Std Dev % of Pay	(12) Unfunded / Payroll	(13) Non-Investment Cash Flow (NICEF)	(14) NICEF / Assets (13)/(2)	(15) Market Rate of Return	(16) 5-year Trailing Average
2010			207.9%	\$ (663)	-2.1%	14.2%	
2011			174.9%	(604)	-1.6%	19.8%	
2012			200.2%	(518)	-1.4%	0.3%	
2013			188.0%	(661)	-1.6%	10.4%	
2014			159.9%	(729)	-1.6%	14.3%	11.6%
2015	12.5%	51.7%	185.2%	(748)	-1.6%	2.7%	9.3%

(10) and (11). The portfolio standard deviation measures the volatility of investment return. When multiplied by the ratio of assets to payroll it gives the effect of a one standard deviation asset move as a percent of payroll. This figure helps users understand the difficulty of dealing with investment volatility and the challenges volatility brings to sustainability.

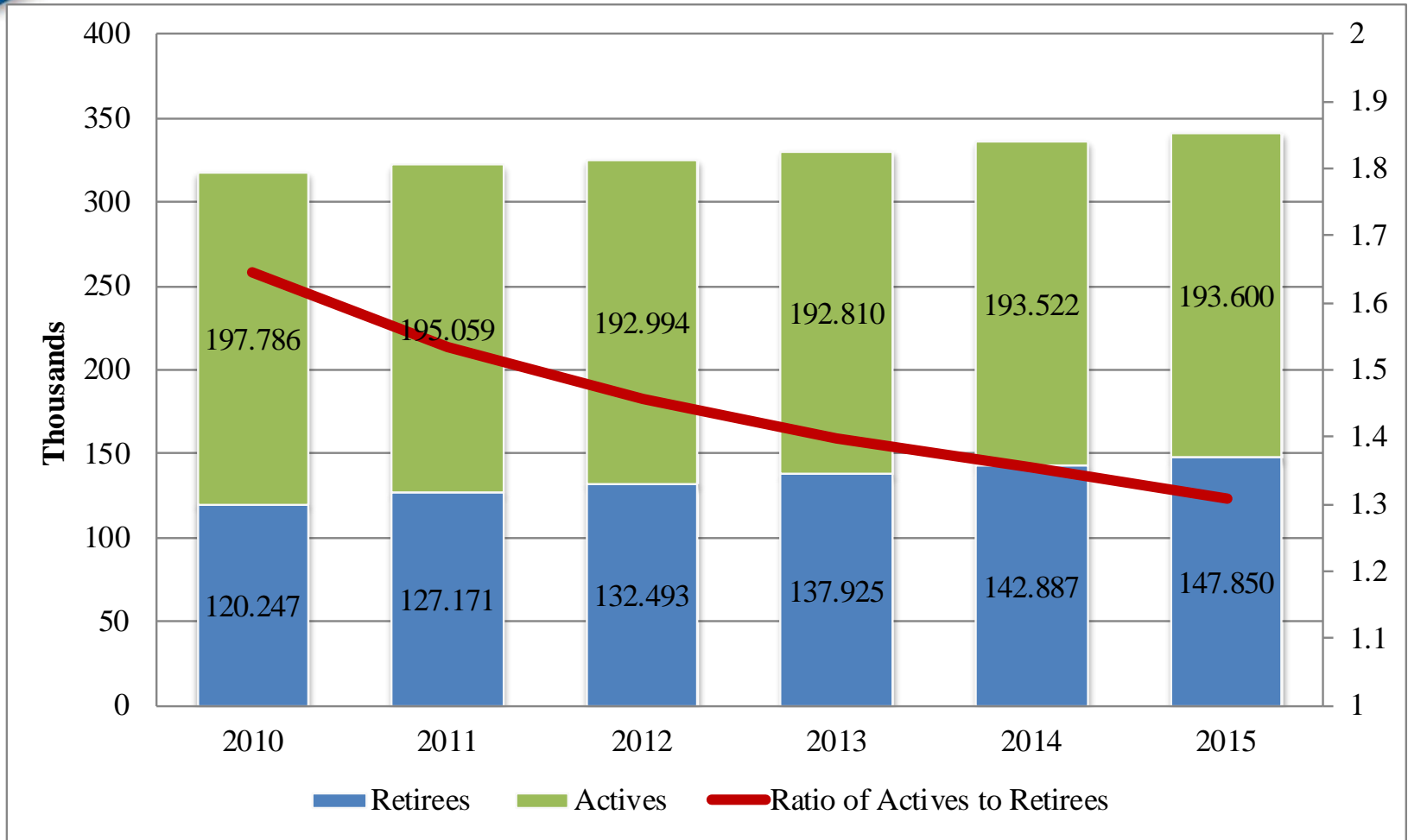
(12) The ratio of unfunded liability to payroll gives an indication of the plan sponsor's ability to actually pay off the unfunded liability. A ratio above approximately 300% or 400% may indicate difficulty in discharging the unfunded liability within a reasonable time frame.

(13) and (14) The ratio of Non-Investment Cash Flow to assets is an important measure of sustainability. Negative ratios are common and expected for a maturing system. In the longer term, this ratio should be on the order of approximately -4%. A ratio that is significantly more negative than that for an extended period could be a leading indicator of potential exhaustion of assets.

(15) and (16) Investment return is probably the largest single risk that most systems face. The year by year return and the 5 year geometric average give an indicator of the realism of the systems assumed return. Of course past performance is not a guarantee of future results.

Membership History

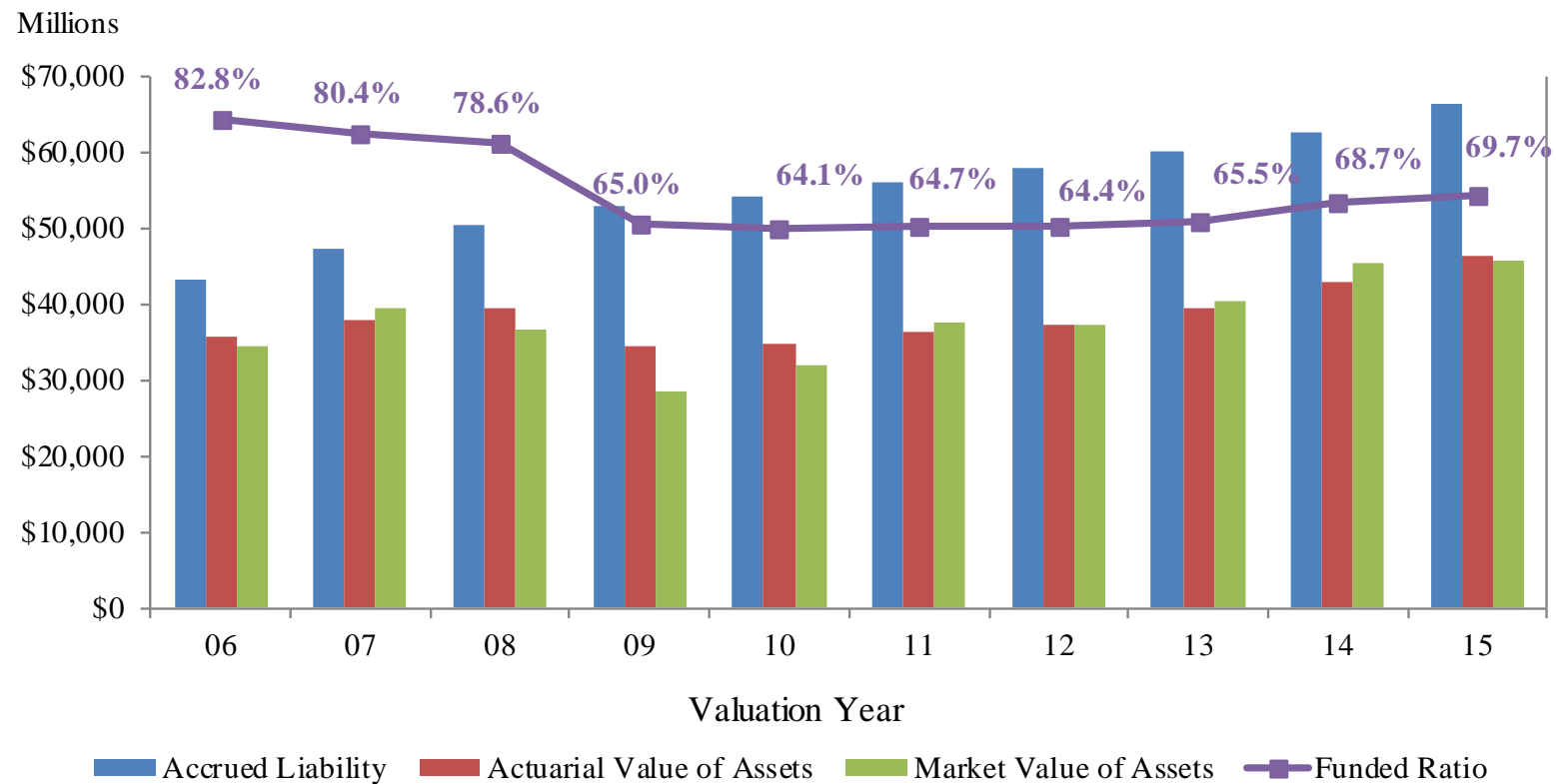
Combined State and Municipal



The ratio of Retirees to Actives gives an indication of the maturity of the system. *Counts exclude terminated vested members.*

Historical Trends – Change in Funded Status, 2006 to 2015

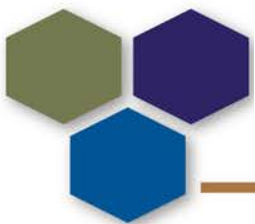
State and Municipal





Concluding Comments

- ◆ Employer contributions changed in approximately the manner projected from the June 30, 2014 valuation results based on
 - ▶ Experience study assumptions
 - ▶ Legislative changes to reinvested savings and elimination of the corridor funding method
 - ▶ Market value investment return of less than 7.65% in FY 2015
- ◆ Experience was slightly more favorable than anticipated for the FY 2015 which led to slightly lower FY 2017 illustrative contributions than was projected.
- ◆ Reduction in reinvested savings will slow growth of funded ratio
 - ▶ System projected to attain an 85% funded ratio in 2030
- ◆ State Systems on a path to reach a 100% funded ratio by 2039



Conclusion

◆ What Is Needed to Sustain MSRPS?

- ▶ Continued reasonable forecasts of resources and obligations
- ▶ Continued sound investment program
- ▶ Continued long-term approach to changes
- ▶ Continued adherence to funding policy



Disclosures

- ◆ This presentation is intended to be used in conjunction with the June 30, 2015 actuarial valuation report. This presentation should not be relied on for any purpose other than the purpose described in the valuation report.
- ◆ Circular 230 Notice: Pursuant to regulations issued by the IRS, to the extent this presentation concerns tax matters, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) marketing or recommending to another party any tax-related matter addressed within. Each taxpayer should seek advice based on the individual's circumstances from an independent tax advisor.
- ◆ This presentation shall not be construed to provide tax advice, legal advice or investment advice.
- ◆ The actuaries submitting this presentation (Brian Murphy, Brad Armstrong, and Amy Williams) are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.
- ◆ The purposes of the actuarial valuation are to measure the financial position of MSRPS, assist the Board in establishing employer contribution rates necessary to fund the benefits provided by MSRPS, and provide actuarial reporting and disclosure information for financial reporting.

Annual Investment Overview for the State Retirement and Pension System

**Presented to the
Joint Committee on Pensions**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

December 2015

Annual Investment Overview for the State Retirement and Pension System

At the request of the Joint Committee on Pensions, the Department of Legislative Services (DLS) annually reviews the investment performance of the State Retirement and Pension System (SRPS) for the preceding fiscal year. This report is intended to provide an overview of the SRPS performance, a comparison of this performance to its peers, and an identification of issues meriting consideration by the joint committee during the upcoming legislative session.

State Retirement and Pension System Investment Performance

The system's investment return for fiscal 2015 was 2.68%, net of management fees, failing to exceed its investment return target for the first time in the last three years. The performance was driven primarily by the system's public equity holdings, which made up 37.63% of the portfolio and returned 3.65% for the fiscal year. As shown in **Exhibit 1**, the system's assets totaled \$45.833 billion as of June 30, 2015, an increase of \$418.2 million over fiscal 2014 after accounting for benefit payouts and other expenses. This is the highest fiscal year-end balance in the fund's history and the second year in a row that the fund has exceeded \$45 billion. As noted below, the strongest performing asset classes were private equity and real estate. Asset class performance is discussed in greater detail later in this report.

As shown in **Exhibit 2**, all but two asset classes performed above their policy benchmarks. U.S. public equity holding returns were 94 basis points under the benchmark, while global equity exceeded its benchmark by 411 basis points. While international equity, which made up 11.05% of the fund, returned -0.29%, the asset class was 497 basis points above its benchmark. The pension fund's real estate and private equity holdings also contributed strong performance, returning 12.12% and 13.17%, respectively, with both exceeding their return benchmarks. Additionally, with the exceptions of U.S. equity and absolute return, each asset class achieved excess returns over their benchmarks for the one-, two-, and three-year periods.

DLS requests the State Retirement Agency (SRA) and the board to comment on the factors that affect the system's ability to achieve returns in excess of the policy benchmarks in each asset class.

Exhibit 1
State Retirement and Pension System of Maryland
Fund Investment Performance for Periods Ending June 30, 2015*
(\$ in Millions)

	<u>Assets</u>	<u>% Total</u>	<u>Time-weighted Total Returns</u>		
			<u>1 Year</u>	<u>5 Years</u>	<u>10 Years</u>
Domestic Equity	\$4,684.0	10.2%	6.35%	16.90%	7.68%
International Equity	5,063.0	11.1%	-0.29%	8.29%	6.22%
Global Equity	7,500.0	16.4%	4.82%	13.20%	n/a
Fixed Income	5,930.2	12.9%	1.96%	4.11%	5.03%
Credit and Debt	4,460.8	9.7%	-0.81%	7.98%	n/a
Real Estate	3,373.1	7.4%	12.12%	14.07%	7.05%
Real Return	6,038.3	13.2%	-5.18%	3.41%	n/a
Private Equity	3,675.5	8.0%	13.17%	15.12%	12.08%
Absolute Return	4,881.9	10.7%	0.74%	4.75%	n/a
Cash	226.6	0.5%	2.10%	2.62%	n/a
Total Fund	\$45,833.4	100.0%	2.68%	9.36%	5.77%

*Data presented here includes money invested by the system on behalf of the Maryland Transit Administration.

Note: Returns beyond one year are annualized. Returns are net of fees, except for 10-year returns, which are gross of fees. Columns may not add to total due to rounding.

Source: State Street Investment Analytics

Exhibit 2
State Retirement and Pension System of Maryland
Benchmark Performance for Periods Ending June 30, 2015*
(\$ in Millions)

	<u>1-Year Return</u>	<u>Benchmark</u>	<u>Excess</u>
Domestic Equity	6.35%	7.29%	-0.94%
International Equity	-0.29%	-5.26%	4.97%
Global Equity	4.82%	0.71%	4.11%
Fixed Income	1.96%	1.93%	0.03%
Credit and Debt	-0.81%	-3.05%	2.24%
Real Estate	12.12%	10.40%	1.71%
Real Return	-5.18%	-6.61%	1.43%
Private Equity	13.17%	7.62%	5.54%
Absolute Return	0.74%	2.71%	-1.97%
Cash	2.10%	0.02%	2.08%
Total Plan	2.68%	0.86%	1.82%

Source: State Street Investment Analytics

Appendix 1 presents the fiscal year-end performance by each investment manager for fiscal 2015 and prior periods, by asset class, and subclass.

Performance Relative to Other Systems

One method of evaluating the system's investment performance is to compare the system's investment performance with the performance of other systems. The Trust Universe Comparison Service (TUCS) rankings are useful for providing a big-picture, snapshot assessment of the system's performance relative to other large public pension plans. According to TUCS, the system's fiscal 2015 investment performance was rated in the eighty-first percentile among the public pension funds with at least \$25 billion in assets, as shown in **Exhibit 3**. However, despite the low rankings for the period ending June 30, 2015, the TUCS data shows that the system's actual performance ranked above its expected performance for each period. As the system has a low allocation to equity investments compared to its peers, the system's investment policy will have a low TUCS ranking when equity markets are experiencing strong performance. However, the system has consistently experienced returns in excess of its benchmarks, resulting in higher actual performance.

In the TUCS analysis, the one-hundredth percentile is the lowest ranking, and the first percentile is the highest. Long-term performance rankings place SRPS in the bottom quartile for every timeframe examined. The TUCS rankings are based on returns gross of fees.

Exhibit 3
TUCS Percentile Rankings for Periods Ending June 30
Fiscal 2012-2015

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
1 Year	75	93	94	81
3 Years	60	87	94	88
5 Years	81	68	84	88
10 Years	93	99	99	91

TUCS: Trust Universe Comparison Service

Source: Trust Universe Comparison Service

The TUCS rankings on their own offer limited insight into the manner in which a system's asset allocation drives performance. The rankings by themselves offer little by way of explaining why Maryland's performance differs from that of other funds, and do not reflect a clear picture of the increased investment volatility risks borne by a system with heavier investment in equity, particularly public equity. A more in-depth examination of asset allocation and returns in comparable state pension plans further illustrates the relationship between allocations to equity and fund performance. In short, high allocations to public and private equity are associated with higher returns due to the run-up in those markets over the last few years. Based on data compiled by SRA, DLS identified four other state pension funds with asset allocations to equity at levels similar to Maryland and five other funds with considerable higher allocations to equity; these are shown in **Exhibit 4**.

Six of the nine funds outperformed SRPS in fiscal 2015 with all but one having higher allocations to equity. This is consistent with domestic equity, private equity, and real estate having relatively strong returns. While Washington and Oregon both had similar allocations to public equity, they both had significantly larger allocations to private equity when compared to Maryland. California's employees' and teachers' systems had similar allocations to private equity but significantly higher allocations to public equity when compared to Maryland. The Pennsylvania teachers' system had almost exactly the same overall allocation to equity as Maryland, with higher allocations to private equity and real estate, and outperformed Maryland by 38 basis points. By contrast, South Carolina had lower allocations to both public equity and real estate and performed 108 basis points below Maryland. One outlier is the Virginia Retirement System, which outperformed Maryland with equity allocations that were lower in total than Maryland's equity allocations. A possible reason for this difference in performance would be if Virginia had a higher

public equity allocation in domestic equity, which performed substantially better than international and global equity in fiscal 2015. Maryland does not have a home country bias, with public equity investments spread out among domestic, international, and global equity. The particular allocations in public equity could result in the difference in fund performance, despite having similar overall allocations to public equity. The system's asset allocation strategy is discussed further in the following section.

Exhibit 4
Performance and Equity Allocation of Public Pension Fund Peers
As of June 30, 2015

	Total Equity Exposure	Public Equity	Asset Allocation		Fiscal 2015 Performance
			Private Equity	Real Estate	
Washington	89.1%	37.3%	37.3%	14.5%	4.93%
California Teachers	80.6%	57.8%	10.1%	12.7%	4.80%
California Employees	73.0%	54.0%	9.0%	10.0%	2.40%
Oregon	72.4%	41.3%	20.5%	10.6%	4.32%
Florida	72.4%	58.1%	6.0%	8.3%	3.67%
North Carolina	57.2%	44.4%	4.7%	8.1%	2.30%
Pennsylvania Teachers	53.1%	24.4%	15.8%	12.9%	3.04%
Maryland	53.0%	37.6%	8.0%	7.4%	2.68%
Virginia	51.8%	35.2%	7.4%	9.2%	4.70%
South Carolina	45.1%	32.3%	8.8%	4.0%	1.60%

Source: State Retirement Agency

The TUCS data for the period ending September 30, 2015, provide some insight when examining the effect of heavy allocations to public equity. As shown in **Exhibit 5**, Maryland's TUCS rankings are significantly higher when domestic equity has the lowest performance ranking. For the periods ending September 30, 2015, domestic equity has had the lowest TUCS performance ranking. Conversely, Maryland has ranked in or near the top quartile during that same period. As expected, due to Maryland's comparatively low allocation to public equity, when the S&P 500 has the highest TUCS performance ranking, Maryland's ranking falls back into the bottom quartile. These results are reflective of the cautious approach of SRPS to avoid losses in market downturns. For the quarter ending September 30, 2015, the system return is -3.61%. However, for that same period, the S&P 500 return is -6.44%. As expected, with the TUCS ranking for the S&P at 100, Maryland's ranking moves up considerably to 25.

The diversification of the system's asset allocation appears to be providing protection against more severe losses in a market downturn. This protection is, as the rankings indicate, at

the expense of additional gains when the markets are performing well. However, while additional gains are always welcome, there is prudence in structuring the investment allocation in a manner that limits the severity of a negative return. Less volatility in investment returns will also result in more stable employer contribution rates.

Exhibit 5
SRPS TUCS Performance Rankings for the Periods Ending
September 30, 2015

	<u>1 Quarter</u>	<u>2 Quarters</u>	<u>3 Quarters</u>	<u>1 Year</u>	<u>2 Years</u>
SRPS Performance	25	25	28	71	87
S&P 500	100	100	100	79	1

SRPS: State Retirement and Pension System

TUCS: Trust Universe Comparison Service

Source: Trust Universe Comparison Service

DLS requests SRA and the board to comment on how the system's asset allocation balances the goals of obtaining returns sufficient to cover the actuarial investment assumption and mitigating the severity of negative returns.

TUCS also provides data on the risk-return profile of its members. The data show that the system's level of risk over the three-year period ending September 30, 2015, was below the median for other public funds with assets greater than \$25.0 billion. This is consistent with the system's comparatively low allocation to public equity, which is a highly volatile asset class. The system's asset allocation sets the system up to protect against more extreme losses in down markets, which is reflected in the rankings shown in Exhibit 5. However, the system's returns were lower than other systems with lower-risk profiles, which indicates that its returns were lower than would be expected given its risk profile. The system's low allocation to equity would be consistent with its low level of risk. However, the TUCS data show a few systems with returns among the highest performers while also maintaining the lowest levels of risk.

DLS requests SRA and the board to comment on the possible investment strategies implemented by other systems to achieve greater investment returns while having similar or lower levels of risk in their portfolios comparative to Maryland, including whether or not such strategies would be consistent with the investment objectives of SRPS.

Looking Ahead: The Future of SRPS Investments

Asset Allocation

The SRPS Board of Trustees sets the allocation of assets to each investment class and continuously monitors the appropriateness of the allocation in light of its investment objectives. The SRPS Investment Policy Manual sets forth the investment objectives:

“C. Objectives

The Board desires to balance the goal of higher long-term returns with the goal of minimizing contribution volatility, recognizing that they are often competing goals. This requires taking both assets and liabilities into account when setting investment strategy, as well as an awareness of external factors such as inflation. Therefore, the investment objectives over extended periods of time (generally, ten to twenty years) are to achieve an annualized investment return that:

1. In nominal terms, equals or exceeds the actuarial investment return assumption of the System adopted by the Board. The actuarial investment return assumption is a measure of the long-term rate of growth of the System’s assets. In adopting the actuarial return assumption, the Board anticipates that the investment portfolio may achieve higher returns in some years and lower returns in other years.
2. In real terms, exceeds the U.S. inflation rate by at least 3.0%. The inflation-related objective compares the investment performance against the rate of inflation as measured by the Consumer Price Index (CPI) plus 3.0%. The inflation measure provides a link to the System’s liabilities.
3. Meets or exceeds the System’s Investment Policy Benchmark. The Investment Policy Benchmark is calculated by using a weighted average of the Board-established benchmarks for each asset class. The Policy Benchmark enables comparison of the System’s actual performance to a passively managed proxy and measures the contribution of active investment management and policy implementation.”

In its annual review of asset allocation, the board decided to make several changes to the overall strategic asset class targets. The board voted to consolidate its current asset class structure into five categories: (1) Growth/Equity, (2) Rate Sensitive, (3) Credit, (4) Real Assets, and (5) Absolute Return. Included within these asset classes are sub-asset classes. The board approved adjustments to the asset allocations and set transitional targets through April 1, 2016, as shown in **Exhibit 6**. The board also approved target ranges for sub-asset classes as well as constraints on hedge fund exposure, with total hedge funds capped at 17% across all asset classes.

Exhibit 6
State Retirement and Pension System Asset Allocation Plan

	<u>Target</u> <u>11/1/2015</u>	<u>Target</u> <u>1/1/2016</u>	<u>Actual</u> <u>4/1/2016</u>
Growth/Equity	48%	47%	47%
U.S. Equity	18.00%	17.00%	16.00%
Intl. Developed Markets Equity	16.00%	14.00%	13.00%
Intl. Emerging Markets Equity	4.00%	6.00%	8.00%
Private Equity	10.00%	10.00%	10.00%
Rate Sensitive	20%	20%	20%
Investment Grade Bonds	0%	0%	0%
Long-term Government Bonds	10%	10%	10%
Securitized and Corporate Bonds	6%	6%	6%
Inflation-linked Bonds	4%	4%	4%
Cash	0%	0%	0%
Credit	8%	9%	9%
Investment Grade Corporate Bonds	0%	0%	0%
High Yield Bonds and Bank Loans	6%	6%	6%
Emerging Market Debt	2%	3%	3%
Real Assets	15%	15%	15%
Real Estate	10%	10%	10%
Commodities	3%	3%	3%
Natural Resources and Infrastructure	2%	2%	2%
Absolute Return	9%	9%	9%

Source: State Retirement Agency

Exhibit 6 also shows a continuation of a trend that began with significant restructuring of the portfolio in fiscal 2008 and 2009. Most notably, public equity has dropped from 62.8% in fiscal 2008 to 37.6% in fiscal 2015, with a new target of 37.0% for total public equity moving forward.

The overall strategy of diminishing allocations to public equity is part of an approach by the board to decrease risk through diversification in the wake of the 2008 financial crisis. A shift from public equity to alternatives strategies like hedge funds can benefit the fund in turbulent markets. Additionally, increased investment in private equity has resulted in positive returns for the system, with less experienced volatility than public equity. It should be noted that the overall strategy of reducing public equity investments is expected to result in lower returns when public equities are in multi-year growth patterns. However, as public equity has been the most volatile asset class over the past 10 years, a more diverse investment allocation will provide protection when equity markets decline.

Investment Management Fees

SRPS incurred \$347.1 million in investment management fees during fiscal 2015, an increase of \$17.5 million over fiscal 2014 fees. As shown in **Exhibit 7**, management fees for the plan as a whole have grown substantially since the system adjusted its asset allocation to invest more heavily in alternative asset classes with higher fee structures. The shift of public equity assets to global equity managers, which are almost all active managers, contributed significantly to the growth in fees over the past two years.

While active management of assets results in higher overall fees, the system has benefited from active management by achieving excess returns over performance benchmarks. In fiscal 2015, global equity and international equity returns were 411 and 497 basis points in excess of their benchmarks, respectively. Additionally, private equity returned 554 basis points in excess of its fiscal 2015 benchmark.

With the exception of domestic equity and absolute return, all asset classes have consistently provided returns in excess of their benchmarks for the one-,two-,three-, and 5-year periods ending June 30, 2015. Excess performance is difficult to achieve in domestic equity investments, and a significant portion of those investments are passively managed. The absolute return asset class performed 197 basis points below its benchmark for a fiscal year return of 0.74%, and comprised almost 0.17% of system management fees. The absolute return asset class is 10.7% of system investments.

DLS requests SRA and the board to comment on the system's management fees for the absolute return asset class given the low rates of return for the asset class.

Exhibit 7
Asset Management Fees Paid by Asset Class
Fiscal 2014-2015
(\$ in Millions)

	<u>2014</u>	<u>2015</u>
Public Equity	\$99.3	\$95.6
Fixed Income	11.8	10.7
Real Estate	26.4	26.2
Private Equity	59.1	62.3
Real Return	26.3	33.8
Credit and Debt Related	62.9	52.3
Absolute Return	33.1	58.2
Currency	6.9	5.0
Service Providers/Other	3.7	2.8
Total	\$329.6	\$347.1

Note: Columns may not sum to total due to rounding.

Source: State Retirement Agency

Private Equity Fees

Private equity investments comprise 8.0% of total system assets as of June 30, 2015. Since then, the total investment has increased to 8.6% as of October 31, 2015. The system's private equity program is relatively young, beginning in 2005. As shown above in Exhibit 7, management fees for private equity comprise 18.0% of total management fees, despite only constituting 8.0% of system assets in fiscal 2015. The reason for the high amount of fees in private equity involves a substantial degree of active management. Fee structures are similar to those used in hedge funds, with a set management fee, plus a portion of earnings referred to as "carried interest". The management fees in Exhibit 8 only reflect the management fees, not carried interest. However, SRA indicates that private equity returns are reported net of management fees and carried interest.

While private equity does involve substantial management fees, the system's private equity portfolio was the strongest performing asset class in 2015, with a return of 13.17%. This return was 554 basis points above its benchmark. Returns for the one-, two-, three-, and 5-year periods were 13.17%, 16.32%, 14.77%, and 15.12%, respectively. Returns for those same periods also provided significant excess returns over the asset class benchmarks.

Over the past few years, there has been increasing interest and scrutiny over the transparency of fees for private equity investments. Concerns have been raised over lack of transparency over fees and expenses related to private equity investments not being fully disclosed. This increased scrutiny is expected to result in more transparent disclosures in the private equity industry.

DLS requests SRA and the board to comment on the system’s management fees for private equity, including carried interest fees, and the potential impact of “hidden” expenses and fees.

Internal Asset Management

A number of large public defined benefit pension funds report using internal management for at least a portion of their portfolio. At the November 2015 meeting of the board, there was discussion regarding the exploration of internal management of SRPS assets. The SRPS Investment Policy Manual was amended to clarify the ability of the chief investment officer to develop and implement internal management strategies. DLS notes that moving to internal management could require substantial increase in staffing and flexibility to provide market rate compensation to investment staff, but also has the potential to generate substantial net savings in management costs.

As a shift to internal management would be a significant change in the operation of the SRA Investment Division, DLS notes that a shift to internal management could require significant operational changes. Performance measures would need to be adopted to monitor and evaluate the effectiveness of internal management of system assets compared to external management. Additionally, guidelines and reporting requirements would need to be implemented to track the internal management of system funds, as well as any expansion or reduction of internal management once implemented.

DLS requests SRA and the board to comment on its plans for internal asset management, including the advantages and disadvantages of implementing internal management of some system assets, the asset classes being evaluated for internal management opportunity, prerequisites for implementing internal management, and successful models of internal management used by other systems.

Terra Maria Program

The Terra Maria program, the system’s emerging manager program, continued to add value to the portfolio, but its performance has weakened compared with its early years. Now in its ninth year, the program performed below its benchmark by 32 basis points in fiscal 2015, though since inception the program has performed 118 basis point above its benchmark. Domestic public equity had a cumulative return of 5.64%, which was 121 basis points below its benchmark. By comparison, the system as a whole returned 6.35% in domestic public equity, which was 94 basis

points below the benchmark. However, the Terra Maria program is actively managed while a large portion of the remaining domestic equity investments are indexed.

The program has also continued to experience some retrenchment in size, both relative to total assets and in the total number of managers involved. After hitting its peak of 110 asset managers in fiscal 2012, the Terra Maria program finished fiscal 2014 with 89 managers, down from 94 in fiscal 2013. Total assets devoted to the program decreased slightly, from almost \$3.0 billion in fiscal 2014 to \$2.9 billion in fiscal 2015. As a proportion of total assets, the Terra Maria program dropped from 6.6% of total assets in fiscal 2014 to 6.3% in fiscal 2015. These trends are driven in part by continued retrenchment in the system's public equity holdings, which comprise the vast majority of the Terra Maria program, as well as manager performance, with a handful of managers terminated during the year. **Exhibit 8** provides an overview of the Terra Maria program by program manager and asset class.

Exhibit 8
Terra Maria Program Performance
June 30, 2015
(\$ in Millions)

<u>Program Manager</u>	<u>Total Assets</u>	Performance			
		<u>Fiscal 2015 Actual</u>	<u>Fiscal 2015 Benchmark</u>	<u>Inception Actual</u>	<u>Inception Benchmark</u>
Attucks	\$432.3	1.59%	2.84%	15.11%	14.11%
Bivium	324.0	1.61%	1.43%	14.08%	13.95%
Capital Prospects	459.8	5.55%	5.76%	17.79%	17.23%
FIS Group	364.3	-0.72%	-2.42%	13.96%	13.12%
Leading Edge	377.2	-0.50%	0.11%	14.23%	13.93%
Northern Trust	599.5	2.50%	3.78%	5.61%	4.88%
Progress	312.2	1.75%	1.89%	8.56%	8.38%
<u>Asset Class</u>					
U.S. Equity	\$1, 347.5	5.64%	6.85%	8.74%	7.84%
International Equity	761.2	-3.53%	-4.86%	2.09%	0.30%
Global Equity	22.5	0.86%	0.71%	11.33%	12.27%
Fixed Income	518.1	1.78%	1.89%	6.76%	8.07%
Credit/Debt	184.1	0.65%	1.55%	8.22%	8.72%
Real Return	35.8	2.97%	3.34%	6.03%	5.95%
Total	\$2,869.2	1.83%	2.15%	5.88%	4.70%

Note: Actual returns are net of fees; returns beyond one year are annualized. Total assets may not sum to total due to rounding.

Source: State Retirement Agency

For fiscal 2015, only two of the seven program managers met or exceeded their performance benchmarks, and on the whole, program performance underperformed its benchmark by 32 basis points. Only international and global equity exceeded benchmarks, and only two asset managers exceeded their individual benchmarks. Despite the underperformance in fiscal 2015, the program as a whole has added value to the portfolio, beating its overall composite benchmark by 118 basis points since inception. Among asset classes, domestic equity, international equity, and real return have exceeded benchmarks since inception. All seven program managers are beating their benchmarks since inception.

Currency Program

Adopted in fiscal 2009, the program is designed to protect against losing value when the dollar appreciates relative to some foreign currencies in countries in which the system holds assets. During periods when the dollar is weak, the currency management program's cost manifests as a slight drag on international equity holdings. However, when the dollar appreciates, the program provides gains that help offset the currency losses generated by the strengthening dollar. During fiscal 2014, with the U.S. dollar relatively weak against foreign currencies, the program lowered international and global equity returns. As of June 30, 2015, the currency program added value of \$256.0 million since inception. Gains when the dollar is strong should outweigh losses when the dollar is weak, and the system has taken steps to lock in program gains. The primary objective of the program is to lower volatility related to currency fluctuations.

The currency hedging program is only applied to a relatively small portion of the system's total assets. As of June 30, 2015, the assets included in the hedging program totaled roughly \$4.7 billion, or about 10%, of fund assets. In addition, not all foreign currencies are included in the hedging program. Due to liquidity constraints and higher transaction costs in some currencies, the program is currently limited to the Euro, Japanese Yen, Swedish Krona, Swiss Franc, Canadian Dollar, Australian Dollar, and British Pound.

DLS requests SRA and the board to comment on the currency program's performance during fiscal 2015 and their plans for the program moving forward.

2016 Board Requested Legislation

The following two legislative proposals are offered by the Board of Trustees for the State Retirement and Pension System for the Joint Committee on Pensions' consideration for the 2016 legislation session. The first legislative proposal addresses the amortization schedule currently in effect for the participating governmental units of the State Retirement and Pension System. The second proposal relates to code simplification. This includes seven issues presented as a package to make technical and clarifying changes to reduce the complexity of Maryland's pension law.

Participating Governmental Units – Amortization Schedule

The current participating governmental unit (PGU) pool in the EPS has an amortization policy that separately amortizes portions of the unfunded liability over 25-year closed periods. There is a large negative amortization base that will be fully amortized during fiscal year 2021. As a result, the pooled employer contribution rate for the PGU pool is projected to experience a large increase from 4.22% in fiscal year 2021 to 8.57% in fiscal year 2022. In anticipation of this large increase, the actuary for the SRPS, GRS, is recommending that the funding policy be changed for the PGU pool such that the pooled unfunded liability is amortized over a period that is 25 years or less. This policy would mirror the amortization period in effect for the State systems. This change would increase the contribution rate over the next five years above what is being projected under the current policy. However, all projected contribution rates under the policy GRS is recommending are lower than the pooled contribution rate of 6.20%, which is in effect for fiscal 2015. Ultimately, though, the projected rate under the recommended policy is considerably lower (5.47%) than the projected rate under the current policy (8.57%) for fiscal year 2022.

To avoid this dramatic jump to the pooled employer contribution rate for the PGU's in fiscal year 2022, the board is recommending adopting a single 25-year closed amortization period similar to the amortization schedule in place for the State systems and as proposed by GRS. This would also ensure compliance with the funding objectives of all defined benefit plan funding policies, specifically stable contribution rates and intergenerational equity.

Code Simplification – Technical Changes

The State Retirement Agency (Agency) has identified seven areas of the State Personnel and Pensions Article believed to be either obsolete or in need of simplification or clarification.

Co-mingling of Assets - Local Fire and Police System

Presently, § 21-123(e) provides that the board may commingle the assets of the several systems, provided the board keep separate records that detail the percentage of participation in each system, the percentage of income, gains, and losses applicable to each system, and the total contributions and disbursements applicable to each system. The Local Fire and Police System (LFP) is listed among the several systems whose assets may be commingled provided separate documents are maintained. This system was closed to new members in 2004 and legislation

passed during the 2005 session transferred the assets and liabilities from the LFP to the Employees' Pension System for participants of withdrawn employers of the LFP. As of June 30, 2008, no participating employers remained in the LFP; all had been moved to the Law Enforcement Officers' Pension System (LEOPS). The June 30, 2009 actuarial valuation for the State Retirement and Pension System (SRPS) indicates that no assets or liabilities remained with the LFP.

The board recommends removing the obsolete language in § 21-123(e) that states assets from the LFP may be comingled with other SRPS assets provided separate records are maintained.

There is no cost associated with this proposal.

Optional Allowances – Designated Beneficiaries

A retiree of one of the several systems (with the exception of the Legislative Pension Plan) has the choice at the time of retirement to elect to receive either the basic allowance with no survivor benefit or an optional method of distribution that results in a reduced benefit while the retiree is living in order to provide for a survivor benefit to a designated beneficiary at the retiree's death. Among the six optional allowances available to retirees, four are dual-life annuities and two are single-life annuities. Section 21-402 of the State Personnel and Pensions Article specifically provides that if a retiree selects a dual-life annuity, the retiree may only designate one individual as the retiree's beneficiary. Conversely, any eligible retiree selecting a single-life annuity (Option 1 and Option 4¹) may designate multiple beneficiaries to share the survivor benefit equally.

Staff for the Agency recently noticed that the language currently in the State Personnel and Pensions Article governing Option 1 states that only a retiree of the Judges' Retirement System (JRS) may designate more than one beneficiary if this option is selected. Because all eligible retirees, regardless of their system, may select multiple beneficiaries under Option 1 and Option 4, staff believes that only referencing retirees of the JRS, may create confusion for all other retirees selecting these options. To address this potential confusion, the board recommends removing the language in the State Personnel and Pensions Article that specifically allows only JRS retirees to select multiple beneficiaries under Option 1.

There is no cost associated with this proposal.

References to the Reformed Contributory Pension Selection

When the Reformed Contributory Pension Benefit (RCPB) was created under Title 23, Subtitle 2, Part IV of the State Personnel and Pensions Article in 2011, reference to this new tier

¹ **Option 1** guarantees monthly payments equal to the total of the present value of the retiree's basic allowance at the time of retirement. If the retiree dies before receiving monthly payments equal to the present value of this benefit, the remaining amount is paid in a single payment to the retiree's designated beneficiary. **Option 4** guarantees the return of a retiree's accumulated contributions at the time of retirement. If the retiree dies before recovering the full amount of accumulated contributions, the remainder is paid in a single payment to the retiree's designated beneficiary.

of the EPS was inadvertently omitted from various sections of this article. Staff has found three provisions addressing eligibility service in Title 23 (§§ 23-302, 23-303, and 23-304) that should have been amended in 2011 to include reference to the RCPB. The board is recommending these sections be amended to now include the RCPB.

There is no cost associated with this proposal.

Teachers' Retirement and Pension System – Reemployment of Retirees Clarification

Chapter 189 of 2015 repealed provisions in the Teachers' Retirement and Pension System (TRS and TPS) provisions of the State Personnel and Pensions Article that allowed the superintendent of each school system to exempt up to 15 retired teachers (depending on the total number of teachers in the county) from the reemployment earnings limitation, if the teachers were hired to either:

- (1) teach any subject or provide educational services at an eligible school, as described above; or
- (2) provide educational services or teach in an area of critical shortage, special education, or a class for students with limited English proficiency in any school in the county.

Chapter 189 broadened this exemption by stating that local school superintendents may hire up to five TRS or TPS retirees to work in any position at any public school and be exempt from the reemployment earnings limitation. Discussions during the bill hearings for Chapter 189 suggest that the legislature intended to allow each superintendent the option to hire a total of five retirees combined between the TRS and TPS. This is consistent with the intent of the legislature with regard to the provisions repealed by Chapter 189 that authorized each local school system to hire a total of up to 15 additional TRS and TPS retirees, combined. However, as drafted Chapter 189 has raised questions by local school systems as to whether each school superintendent may hire up to 10 retirees, total (five from TRS and five from TPS).

The board is seeking clarification from the joint committee as to their intent with regard to Chapter 189 of 2015. Whether the joint committee believes that the intent is for local school systems to hire a total of five retirees or 10 retirees, the board recommends amending these provisions to reflect this meaning.

Correctional Officers' Retirement System – Clifton T. Perkins Maximum Security Guards

Chapter 596 of 1982 transferred the maximum security attendants at Clifton T. Perkins Hospital Center from the Employees' Retirement and Pension Systems (ERS and EPS) to the Correctional Officers' Retirement System (CORS), allowing these individuals to retire with 20 years of service. However, the bill as it was drafted in 1982 inadvertently eliminated many of the benefits these individuals had earned, including vesting after accruing five years of service in the ERS or EPS. To address the issue of vesting, Chapter 474 of 1983 added language similar to

the vesting language in the ERS for the security attendants, stating that these individuals would be entitled to retire from the CORS at age 60 if they had accrued at least 5 years of service. This bill also added additional vesting language stating all other members of the CORS would be eligible to retire at age 55 if they had accrued at least five years of service in the CORS.

Other than stating that Chapter 474 intended to restore many of the benefits the security attendants had enjoyed in the ERS and EPS, the legislative history for this section of law is silent as to why age 60 was set for all future security attendants and not just limited to those transferring in 1982 from the ERS and EPS. Any new security attendants joining the CORS after 1982 would not have accrued any previous benefit in the ERS or EPS, yet due to the overly broad language included in Chapter 474, these individuals would be required to work an additional five years to age 60, beyond the normal service retirement age for all other members of the CORS, at age 55.

This discrepancy in normal retirement age (age 60 versus age 55) remains in effect in the CORS today. Staff believes based on the legislative history of this provision that the legislature in 1983 only intended to make those attendants transferring from the ERS and EPS to the CORS whole with regard to the benefits they had accrued prior to transferring to the CORS and did not intend to bind future generations of security attendants to this higher normal retirement age.

Accordingly, the board recommends changing the normal retirement age for maximum security attendants at Clifton T. Perkins Hospital Center to age 55 to bring this small group of individuals in line with all other members of the CORS.

The board anticipates that any cost to the SRPS would be minimal.

Ordinary Disability Retiree Earnings Limit

Most retirees receiving an ordinary disability retirement allowance are subject to an earnings limitation if they are reemployed while they are under normal retirement age and employed by a participating employer at an annual compensation that is \$5,000 more than the difference between retiree's retirement allowance at the time of retirement and the retiree's average final compensation. If a retiree's annual compensation exceeds this earnings limit, the board is required to reduce the retiree's pension \$1 for every \$2 if the retiree is reemployed within the first 10 years following retirement and then \$1 for every \$5 if the retiree is reemployed after being retired more than 10 years. This offset is applied irrespective of what the retiree's average final compensation was at the time of retirement. For example, a retiree who was awarded an ordinary disability at age 30, had an AFC of \$24,000 and a basic allowance of \$16,000, only could earn up to \$13,000, annually, before exceeding his earnings limitation (\$24,000+\$5,000 - \$16,000). If this same retiree was reemployed by a participating employer at an annual salary of \$30,000, the retiree would exceed the earnings limitation by \$17,000 (\$30,000-\$13,000) and would be subject to an \$8,500 offset to the retiree's ordinary disability benefit (50% of \$17,000).

The board is recommending that the earnings limitation provision for ordinary disability benefits be amended to provide for an exemption from the limitation and corresponding offset if the retiree's AFC at the time of retirement is less than \$25,000. This exemption would be

consistent with the exemption in place for retiree's receiving a service retirement allowance from the employees', teachers' or correctional officers' systems. Staff reports that in the past five years, less than 10 retirees per year would have been exempt from the earnings limitation if the exemption had been \$25,000 or less.

Accordingly, the board anticipates that any cost to the SRPS would be minimal.

Ex-Officio Trustees – Designee Appointment

Presently, § 21-104(a) states that the Treasurer, serving as an ex-officio trustee, may appoint a deputy treasurer as the Treasurer's designee to the board. However, § 21-403 is silent with regard to whether the Comptroller and Secretary of Budget and Management, also both serving as ex-officio trustees, may appoint deputies as their designees to the board. While membership on the board and the Investment Committee is established by statute, membership on other subcommittees of the board (Administrative, Corporate Governance and Audit Committee) are established by the board through its Operations Policy. It is this point that distinguishes these subcommittees from the Investment Committee and is the basis for the board's authority to determine the membership of the Administrative, Corporate Governance, and Audit Committees, and not the membership of the Investment Committee. Presently, the Deputy Treasurer and the Deputy Secretary of Budget and Management have represented the Treasurer and Secretary as their designees to the Administrative Committee of the board, respectively. However, because these non-trustee members of the board's subcommittees are not provided for in statute, the definition of "fiduciary" under § 21-201(b)(2) does not include these individuals.

To address this issue, the board is recommending legislation that would explicitly grant the Treasurer, Comptroller, and Secretary the authority to appoint either a deputy or chief of staff as their designees. Additionally, the board also recommends amending the definition of "fiduciary" under § 21-201(b)(2) to include members of all committees of the board, not just the Investment Committee. Expanding the definition of fiduciary to include the other committees of the board would clarify that fiduciary standards and liability for a breach of fiduciary duty would also be conferred on non-trustee members of the committees.

There is no cost associated with this proposal.

Disability Benefits

**Presentation to the
Joint Committee on Pensions**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

October 2015

2015 Joint Chairmen's Report

- The 2015 *Joint Chairmen's Report* (JCR) requested the State Retirement Agency (SRA) and the Department of Legislative Services (DLS) to review the disability process and benefit awards in Maryland and examine how Maryland's benefits compare with other states. The 2015 JCR requested SRA and DLS to submit findings and recommendations to the Joint Committee on Pensions by October 30, 2015
- Normal retirement benefits have been substantially changed twice in the past 10 years (2006, 2011)
- By contrast, disability retirement benefits have not been substantively changed in at least 15 years

Eligibility Requirements for Disability Retirement in Maryland

- Maryland offers two types of disability retirement benefits if an injury or medical condition permanently prevents a member from performing the member's current job duties
- **Ordinary Disability** – a member is eligible if:
 - The member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
 - The incapacity is likely to be permanent;
 - The member has five years of eligibility service; and
 - The member applies no later than four years after paid employment ends (or five years for Teachers' Retirement System members)

Eligibility Requirements for Disability Retirement in Maryland (cont.)

- **Accidental Disability** – a member is eligible if:
 - The member is totally and permanently incapacitated for duty as the natural and proximate result of an accident that occurred in the actual performance of duty **at a definite time and place** without willful negligence by the member;
 - The member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
 - The incapacity is likely to be permanent; and
 - For members of the teachers' and employees' systems, the member applies within five years of the date of the accident.

Eligibility Requirements for Disability Retirement in Maryland (cont.)

- Special Provisions for State Police and Law Enforcement Officers
 - A member is eligible if the member is totally and permanently incapacitated for duty *arising out of* or in the course of the actual performance of duty without willful negligence by the member (*i.e.*, not necessarily at a definite time and place)
 - There is no time limit to file for accidental disability
 - The State Police accidental disability is called a “special disability retirement allowance”

Terminology

- Average Final Compensation (AFC)
- Normal Service Benefit –
[AFC] x [years of service] x [multiplier]
- Social Security Disability Insurance (SSDI)

Maryland Benefits Employees/Teachers

- Ordinary benefits are based on the calculation of normal service retirement benefits, with creditable service projected to normal retirement age (62/65)
- Accidental benefit is *lesser* of:
 - AFC at time of disability, or
 - sum of $\frac{2}{3}$ of AFC + annuity of accumulated member contributions
- Accidental benefits are tax free (except for annuity)

Maryland Benefits

Employees/Teachers (cont.)

- Disability benefits are offset dollar-for-dollar for any Workers' Compensation benefits received for the same disability
- Disability benefit are subject to suspension or offset if reemployed with a participating employer, under specified circumstances
- Re-employment with an employer who does not participate in the State Retirement and Pension System has no effect on disability benefits

Maryland Benefits Law Enforcement

- Ordinary benefit is *greater* of:
 - Normal service benefit, or
 - 35% of AFC
- Special/accidental benefit is *lesser* of:
 - AFC at time of disability, or
 - Sum of $\frac{2}{3}$ AFC + annuity of accumulated member contributions
- Accidental disability benefits are tax free (except for the annuity)

Maryland Benefits

Law Enforcement (cont.)

- Benefits are subject to dollar-for-dollar offset for Workers' Compensation benefits for the same disability
- Re-employment in a non-law enforcement position with *any* employer has no effect on benefits

Disability Process in Maryland – Application

- To apply for disability, a claimant must provide specified documents and must file specific forms through their employer, even if separated from service
 - Statement of Disability
 - Pertinent medical records
 - Current job description signed and dated by employer
- The employer must submit sick leave usage and attendance records and performance documentation on the employee for the previous 24 months
- The claimant must submit additional information if applying for accidental disability
- SRA reviews the claim for completeness

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Medical Board Review

- When all of the required documentation is provided, SRA forwards the information to the medical board
- Claims are assigned to one of four medical boards based on the physicians' areas of expertise
- The medical board reviews the claim based on the record
 - Does not examine the claimant
 - May order an independent medical evaluation at SRA's expense
- After reviewing the documentation, the medical board can make the following findings:
 - The member is not disabled
 - The member is disabled
 - Recommend approval of ordinary disability
 - Recommend approval of accidental disability

Reconsideration

- If the medical board determines that the claimant is not disabled, SRA staff notifies the claimant
 - The claimant may accept the determination of the medical board or may file a written request for reconsideration within 30 days of the date of notice
- If the medical board certifies that the claimant is disabled, SRA staff submits a certification to the executive director of SRA for a decision by the Board of Trustees
 - The claimant may accept the decision of the Board of Trustees or may file a written request for reconsideration within 30 days of the date of notice of the decision
- If a claimant timely requests reconsideration, the medical board shall reconsider a claimant's file, including any additional evidence submitted by the claimant
- After making a decision on the request for reconsideration, the medical board submits a certification to the executive director of SRA who then notifies the claimant of the recommendation and forwards the recommendation to the Board of Trustees

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Board of Trustees Review

- At each regular meeting of the Board of Trustees, the executive director must present a disability report to the board that summarizes the decisions of the medical board on the claims for disability retirement
- The disability report is adopted by a majority vote of the Board of Trustees
- In some cases, the board remands the claim to the medical board for additional review or information
- SRA provides written notice to the claimant of the board's decision
- A claimant may appeal to the Office of Administrative Hearings (OAH) by filing a written request for a hearing within 30 days of the date of the notice of the decision

Appeal Process

- At OAH, an administrative law judge hears the case
- After the hearing, the administrative law judge submits a proposed decision to SRA and the claimant that includes proposed findings of fact and conclusions of law
- Each party may file exceptions to the proposed decision in writing with the executive director of SRA within 15 days after the date of the proposed decision
- If a decision does not involve only medical issues, the decision is forwarded to the Board of Trustees for review
- If a decision involves only medical issues, the decision is forwarded to the medical board for review

Appeal Process (cont.)

- An exceptions hearing is held before the Board of Trustees
- The board must issue a final decision based on:
 - The official record
 - The administrative law judges proposed decision
 - Exceptions filed
 - The medical board's decision, if applicable, and
 - The arguments presented at the hearing before the board
- If a claim is denied by the Board of Trustees, the claimant is advised of the right to appeal the board's decision to the circuit court within 30 days

When a Claim Is Approved

- If a claim is approved, SRA sends the claimant an estimate of the retirement allowance
- SRA notifies the claimant's employer of the disability retirement award
- If the claimant is a State employee, SRA notifies the employer that the claimant shall be considered resigned from State service as of the 120th day after the date of the notice of approval
- A claimant has 120 days to accept a disability retirement
- If a claimant does not accept a disability retirement within this time period, SRA shall close the file
- A claimant who is approved for a disability retirement but is eligible for a service retirement, may accept a service retirement instead

Disposition of Disability Cases

Fiscal 2011-2015

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Submitted to Initial Review	1,067	865	397	929	945
Approved in Initial Review	1,016	768	363	807	794
Approved on Reconsideration	21	20	14	29	49
Approved Post-reconsideration	4	2	2	3	8
Total Approved	1,041	790	379	839	851
% Approved	97.6%	91.3%	95.5%	90.3%	90.1%

Percentage of Disability Retirees by State

- DLS reviewed the *Fiscal 2014 Comprehensive Annual Financial Reports* or other relevant financial reports for every state to determine the percentage of disability retirees in each state

- Six states had less than 2.0% disability retirees

- Illinois 1.88%
- Nebraska 1.65%
- Montana 1.29%
- Kansas 1.28%
- South Dakota 1.25%
- Alaska 0.64%

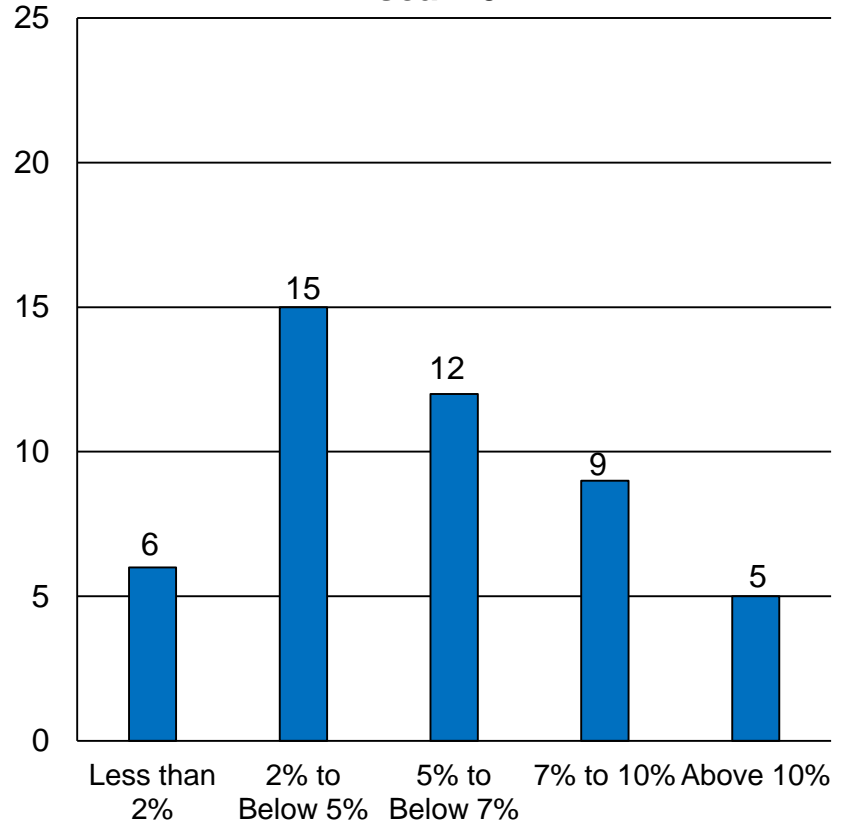
- The average was 5.49% in Louisiana

- Five states had more than 10.0% disability retirees

- Maryland 11.67%
- South Carolina 10.88%
- Arizona 10.83%
- California 10.53%
- Virginia 10.08%

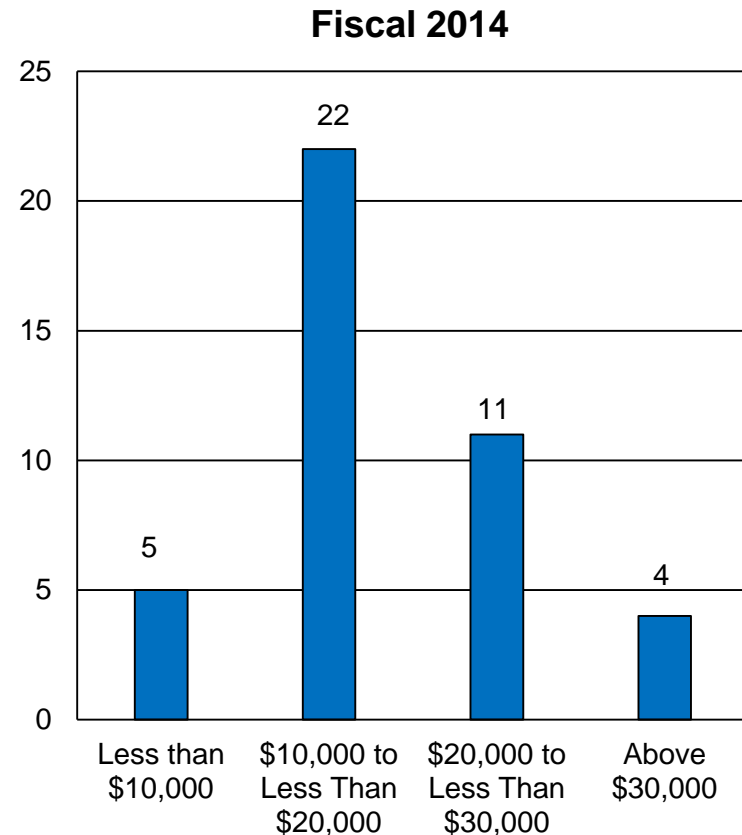
- Maryland had the highest percentage of disability retirees (11.67%)

Fiscal 2014



Average Amount of Disability Benefit by State

- DLS reviewed the *Fiscal 2014 Comprehensive Annual Financial Reports* or other relevant financial reports for every state to determine the average amount paid to disability retirees in each state
- Five states paid an average of less than \$10,000 to disability retirees annually
- The average amount paid to disability retirees was \$17,923
- Four states paid an average of more than \$30,000 to disability retirees annually
- Maryland paid an average of \$20,670 to disability retirees annually (12th highest)
- The state with the highest average amount paid to disability retirees was Arizona (\$41,852)
 - Arizona had the 3rd highest percentage of disability retirees
- The state with the second highest average amount paid to disability retirees was Kansas (\$37,937)
 - Kansas had the 3rd lowest percentage of disability retirees



Disability in Other States – Methodology

- Reviewed statutory provisions and member handbooks in all 50 states;
 - Michigan is excluded because it provides only for the return of defined contribution account balances
- In cases where benefits differ by benefit class or tier, findings reflect only benefits provided to new hires as of the current year
- Only examined benefits for state employees and state police/highway patrol

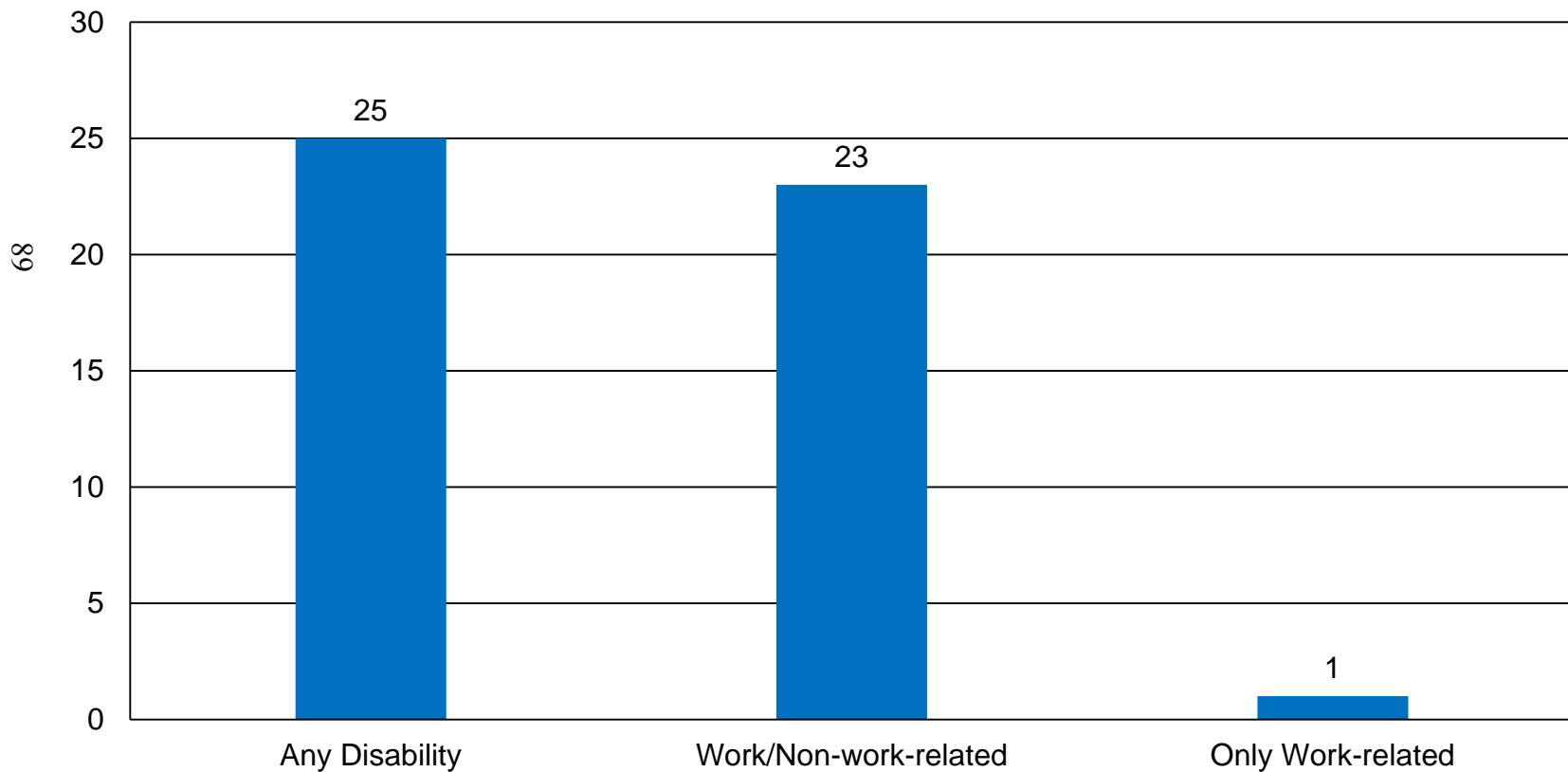
Benefits in Other States

Common Characteristics

- Applicants for disability benefits who are eligible for normal retirement are not eligible for disability benefits
- Disability benefits terminate if the individual is no longer disabled
 - No such provision in Maryland

Benefits in Other States – Employees

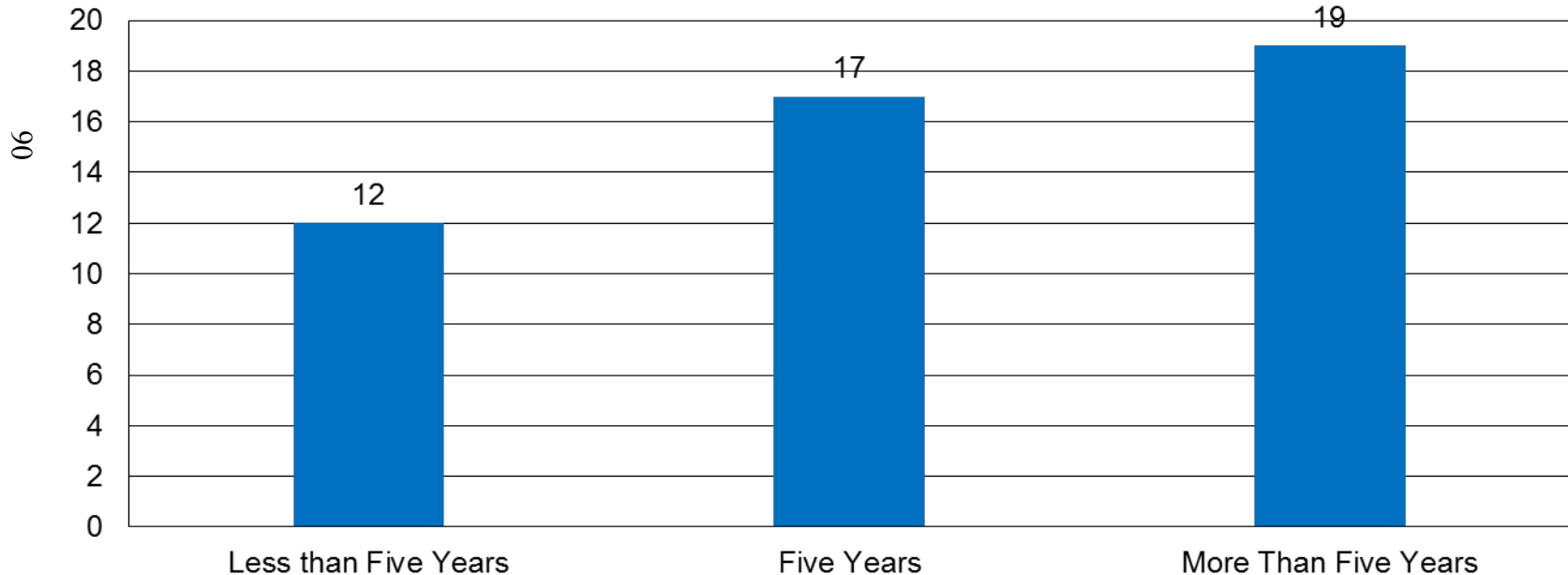
Types of Disability Benefits for State Employees



Benefits in Other States – Employees

(cont.)

**Vesting Requirement for
Non-Work-Related Disability
State Employees**

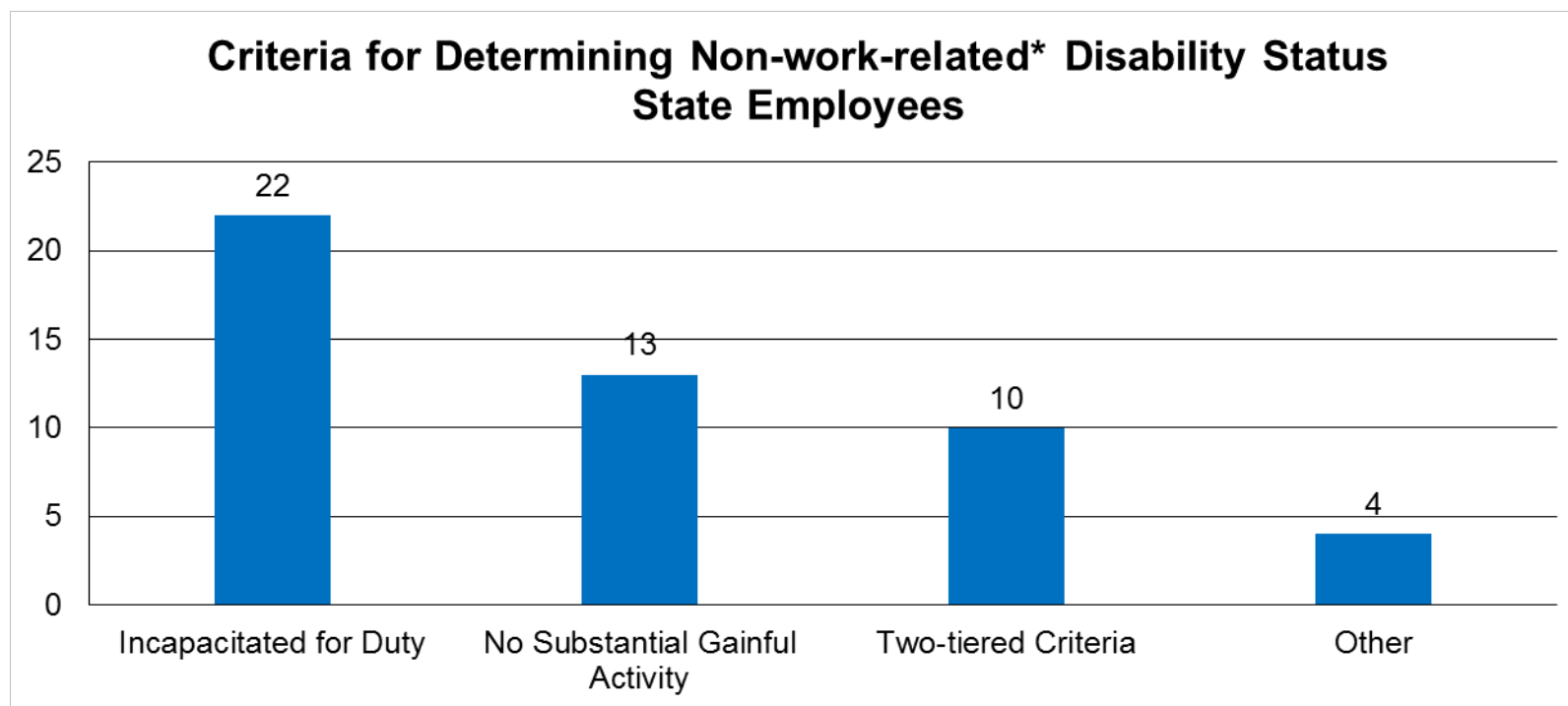


Benefits in Other States

- Two predominant criteria for determining disability status:
 - Incapacitated for further performance of duties of current job (Maryland)
 - Unable to engage in any substantial gainful activity (SSDI)
- Some states use a two-tiered definition in which short-term benefits are provided based on incapacity to perform current duties and long-term benefits are provided based on inability to engage in substantial gainful activity

Benefits in Other States – Employees

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- Five states that use the substantial gainful activity standard require that applicants receive SSDI as a condition for receiving state benefits; two additional states require that applicants at least apply for SSDI benefits and then offset any amount they are awarded

*Includes states that do not distinguish between work- and non-work-related disabilities.

Benefits in Other States – Employees

(cont.)

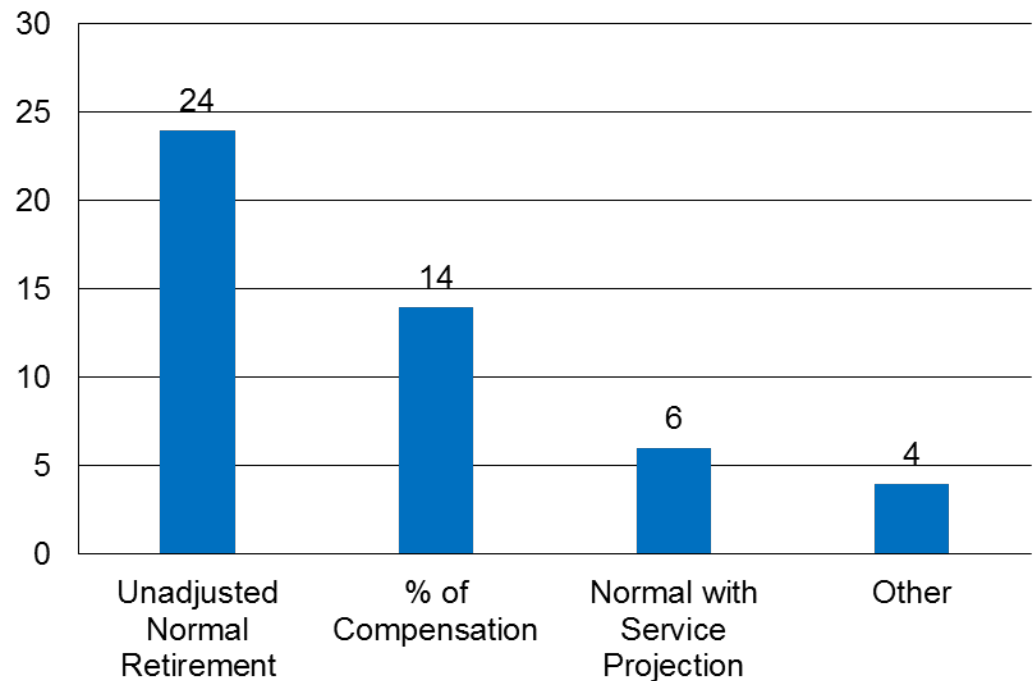
- Three main benefit structures
 - Normal retirement calculation using years of service and compensation at time of disability
 - Some have caps or minimum amounts
 - Normal retirement calculation with service projected to normal retirement age
 - Percentage of compensation at time of disability

Benefits in Other States – Employees

(cont.)

- Seven states that use a normal service calculation cap the benefits, typically between 33% and 50% of compensation
- Ten states that use a normal service calculation have a minimum benefit amount (the range is 15% to 45% of compensation)
- For states providing a percentage of compensation, the range is 25% to 66.7%

**Benefits for Non-work-related Disabilities
State Employees**

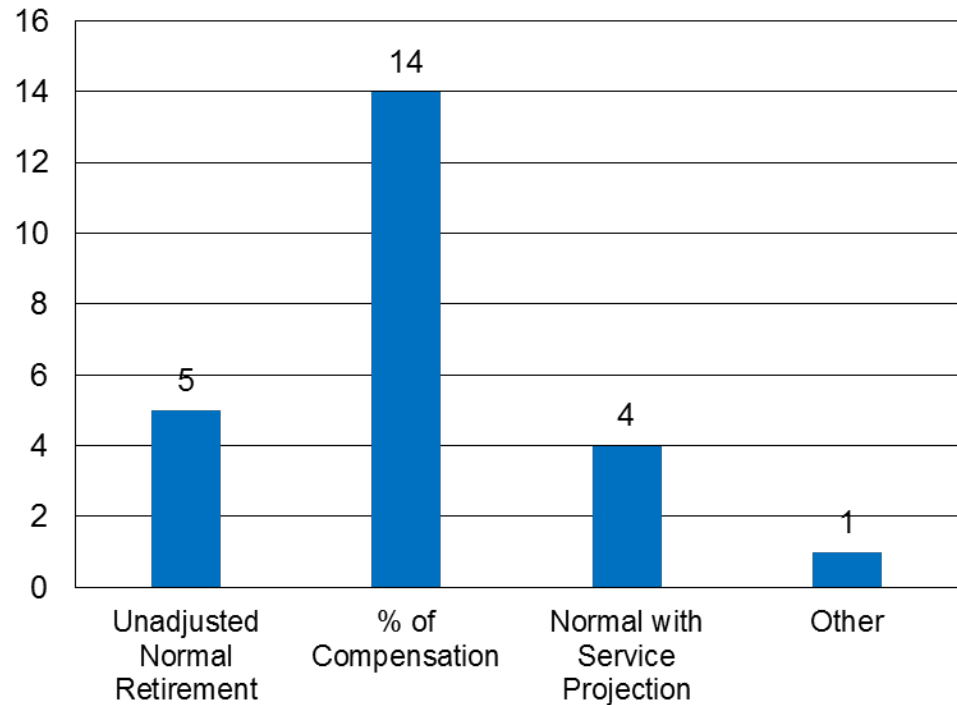


Benefits in Other States – Employees

(cont.)

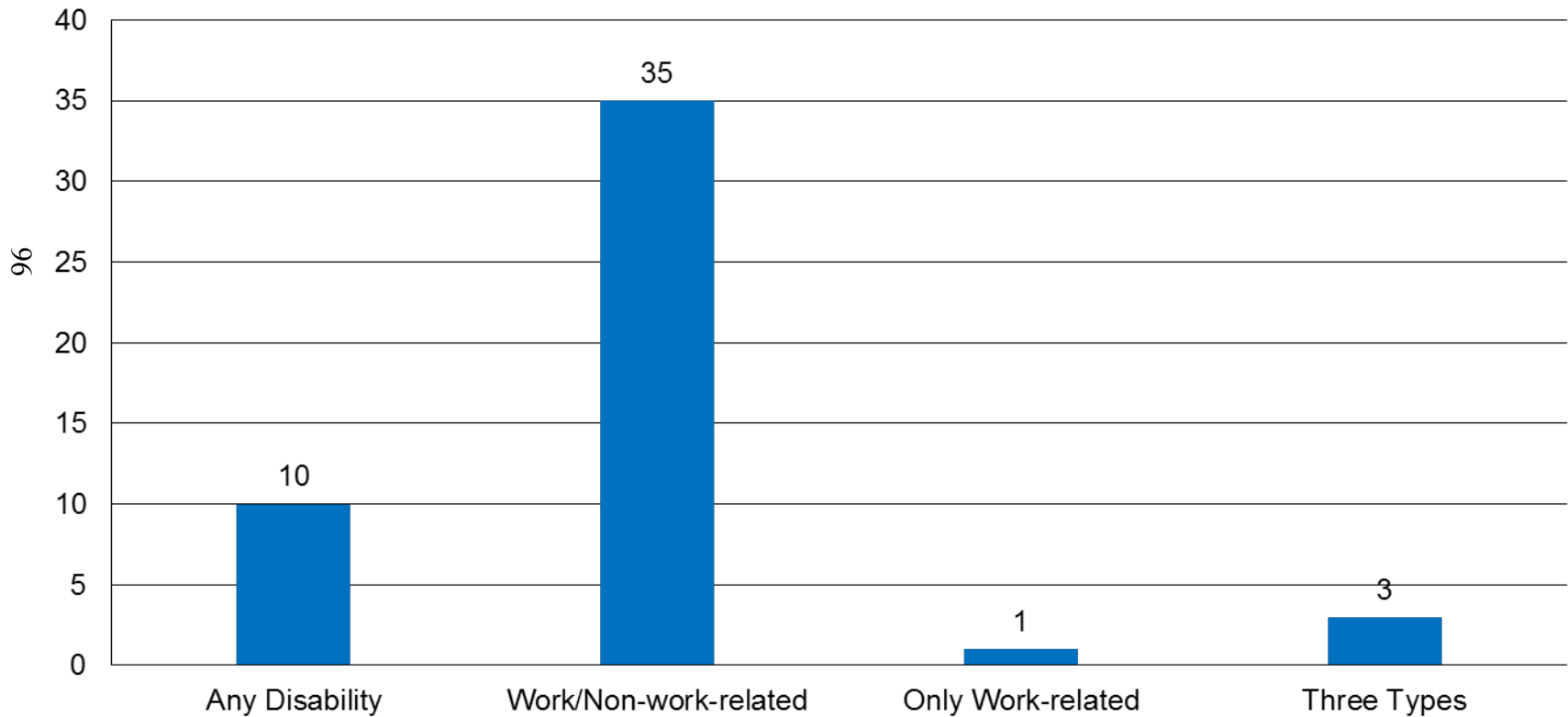
- One state (Vermont) caps benefits at 50% of compensation
- Six states have a minimum benefit amount (20% to 42% of compensation)
- Percentage of compensation ranges from 40% to 100% of compensation; most common amount is 50%
- Only three states provide a refund of accumulated contributions in addition to benefit

**Benefits for Work-related Disabilities
State Employees**



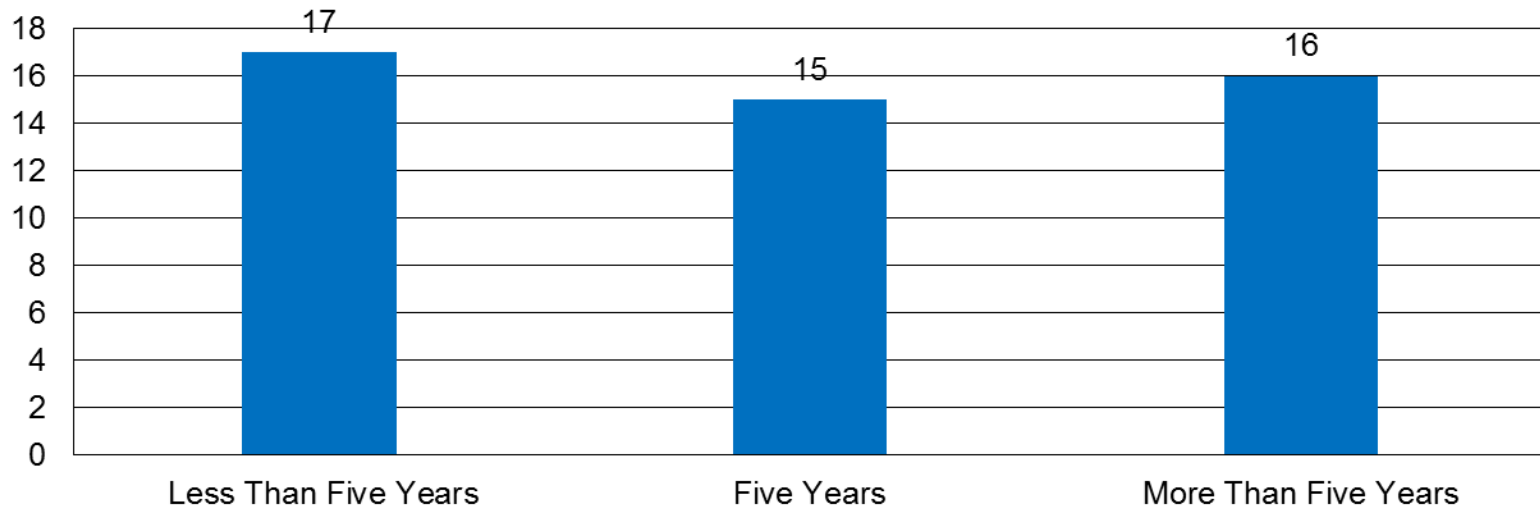
Benefits in Other States – Police

Types of Disability Benefits for State Police



Benefits in Other States – Police (cont.)

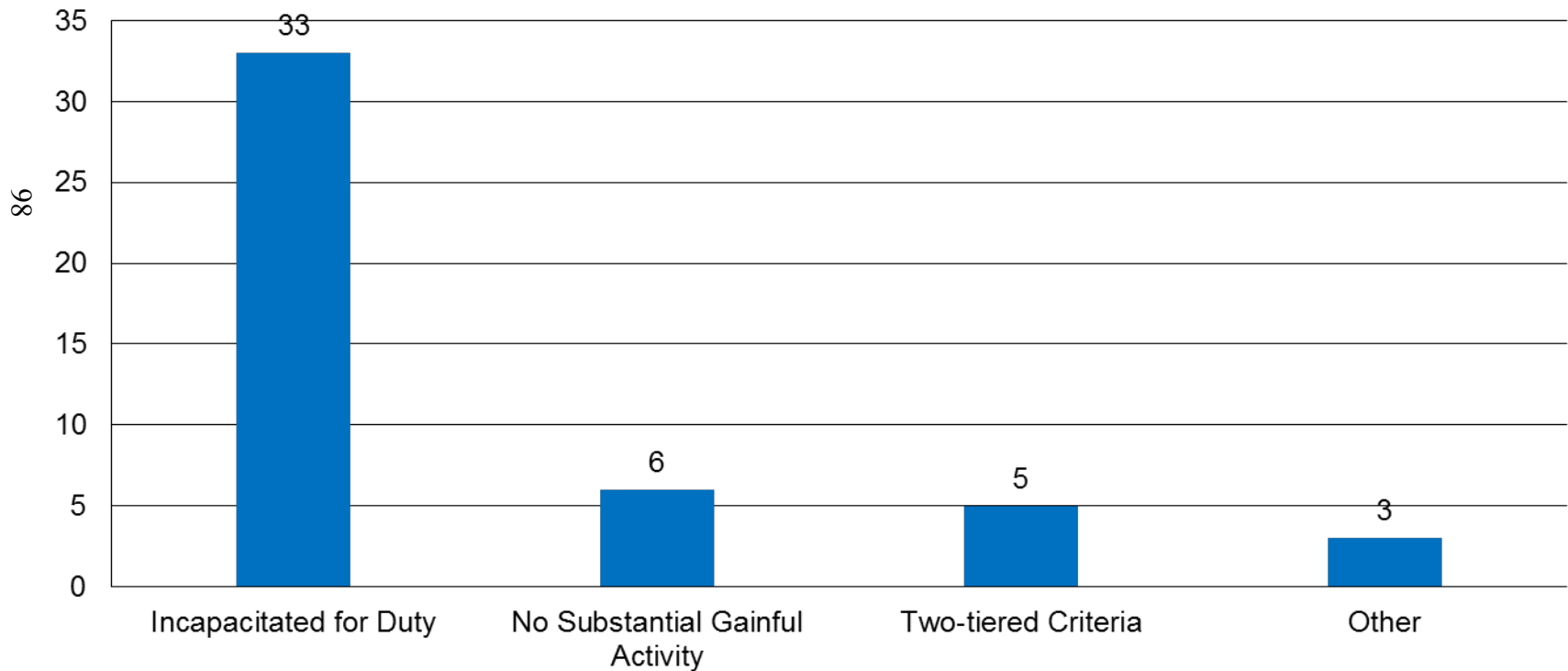
**Vesting Requirement for
Non-work-related Disability
State Police**



*Includes states that do not distinguish between work- and non-work-related disabilities.

Benefits in Other States – Police (cont.)

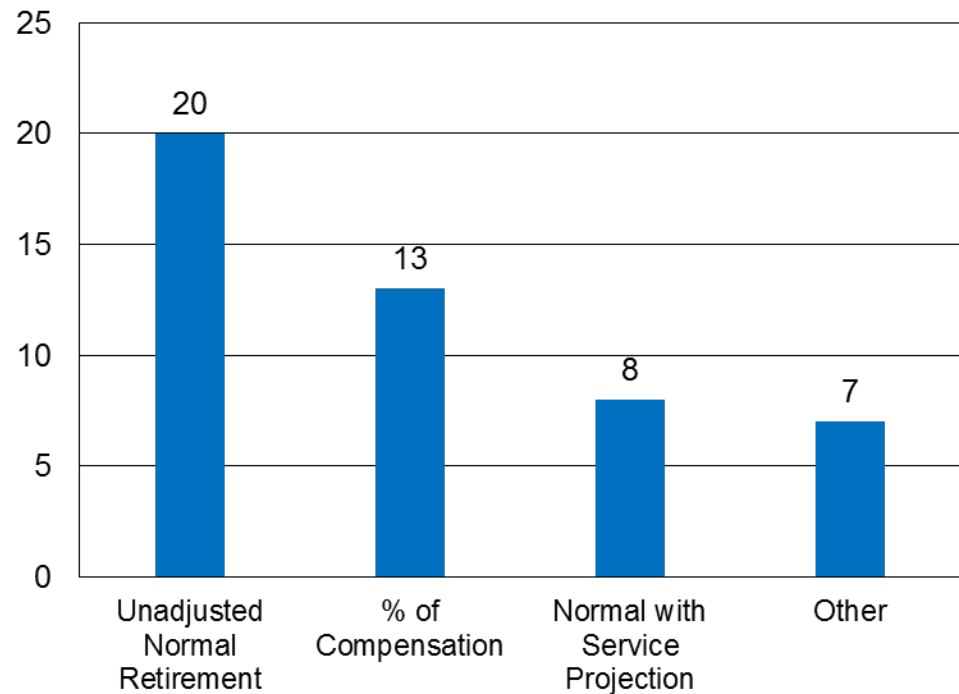
**Criteria for Determining Non-work-related Disability Status
State Police**



Benefits in Other States – Police (cont.)

- Five states that use a normal service calculation cap the benefits, typically between 33.0% and 50.0% of compensation
- Thirteen states that use a normal service calculation have a minimum benefit amount (range is 20.0% to 50.0% of compensation)
- For states providing a percentage of compensation, the range is 20.0% to 66.7%

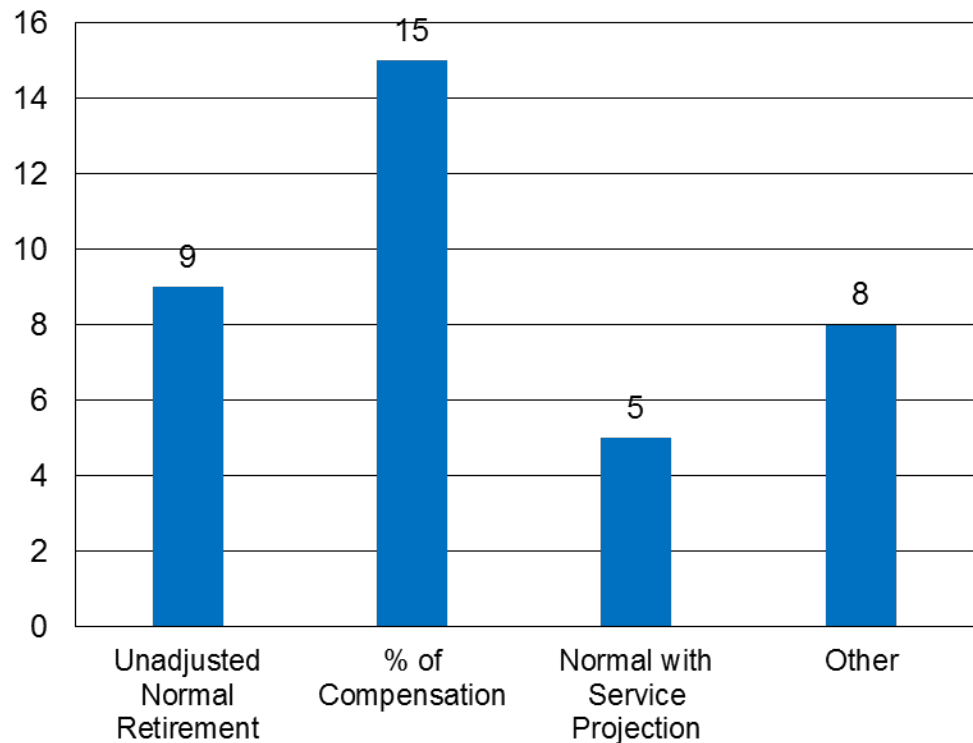
**Benefits for Non-work-related
Disabilities
State Police**



Benefits in Other States – Police (cont.)

- One state (Connecticut) caps benefits at 40% of compensation
- Eight states have a minimum benefit amount (25% to 65% of compensation)
- Percentage of compensation ranges from 40% to 100% of compensation

**Benefits for work-related Disabilities
State Police**



Issues Related to Current Process

- Time period for filing
- Time period for deferrals
- Independent medical evaluations
- State medical director
- Final decision making authority
- Terminology

Issues Related to Benefits Provided

- Vesting
- Criteria for determining disability
- Restrictions on ordinary benefits
- Review of disability status and/or termination of benefits when individual is no longer disabled
- Offsets of other disability benefits
- Restrictions on reemployment

Number of Retirees by State for Fiscal 2014
Sorted by Percentage of Disability Retirees

State	Service Retirees		Disability Retirees		All Retirees
	<u>Number</u>	<u>% of Total Number</u>	<u>Number</u>	<u>% of Total Number</u>	<u>Number</u>
Maryland ¹	125,450	88.33%	16,577	11.67%	142,027
South Carolina*	127,725	89.12%	15,588	10.88%	143,313
Arizona ²	13,032	89.17%	1,582	10.83%	14,614
California	778,046	89.47%	91,532	10.53%	869,578
Virginia	156,917	89.92%	17,599	10.08%	174,516
Colorado	32,373	90.41%	3,433	9.59%	35,806
West Virginia	53,890	90.41%	5,716	9.59%	59,606
Arkansas	61,454	90.94%	6,120	9.06%	67,574
Ohio	414,469	91.15%	40,247	8.85%	454,716
North Carolina	224,784	91.80%	20,069	8.20%	244,853
Delaware*	22,010	92.02%	1,908	7.98%	23,918
Georgia	158,146	92.89%	12,101	7.11%	170,247
Kentucky ³	144,543	92.91%	11,037	7.09%	155,580
Alabama*	119,845	92.93%	9,122	7.07%	128,967
New Jersey	246,495	93.15%	18,136	6.85%	264,631
Massachusetts ⁴	53,894	93.28%	3,880	6.72%	57,774
Mississippi	89,798	93.43%	6,316	6.57%	96,114
Nevada	49,941	94.01%	3,184	5.99%	53,125
Pennsylvania ⁵	270,675	94.10%	16,979	5.90%	287,654
New York ⁶	494,807	94.24%	30,248	5.76%	525,055
Tennessee	108,729	94.36%	6,498	5.64%	115,227
Louisiana	113,540	94.51%	6,595	5.49%	120,135
Washington*	142,078	94.63%	8,067	5.37%	150,145
Maine	38,018	94.74%	2,109	5.26%	40,127
Rhode Island	25,719	94.92%	1,377	5.08%	27,096
New Hampshire	29,401	94.96%	1,561	5.04%	30,962
Michigan* ⁷	237,901	95.19%	12,016	4.81%	249,917
Oklahoma	76,545	95.60%	3,527	4.40%	80,072
Florida	363,034	95.74%	16,137	4.26%	379,171
Iowa	98,951	96.05%	4,064	3.95%	103,015

State	Service Retirees		Disability Retirees		All Retirees
	<u>Number</u>	<u>% of Total</u> <u>Number</u>	<u>Number</u>	<u>% of Total</u> <u>Number</u>	<u>Number</u>
Idaho	39,239	96.23%	1,537	3.77%	40,776
Hawaii*	40,249	96.26%	1,563	3.74%	41,812
Vermont	15,817	96.30%	608	3.70%	16,425
Wisconsin*	173,663	96.45%	6,393	3.55%	180,056
Texas⁸	441,787	96.54%	15,850	3.46%	457,637
Oregon	122,374	96.58%	4,335	3.42%	126,709
Minnesota	186,684	97.03%	5,715	2.97%	192,399
North Dakota⁹	15,763	97.18%	457	2.82%	16,220
Missouri	139,127	97.44%	3,653	2.56%	142,780
Utah	52,772	97.51%	1,345	2.49%	54,117
New Mexico*	71,163	97.57%	1,772	2.43%	72,935
Illinois	175,569	98.12%	3,373	1.88%	178,942
Nebraska¹⁰	20,940	98.35%	351	1.65%	21,291
Montana	36,326	98.71%	473	1.29%	36,799
Kansas	86,531	98.72%	1,124	1.28%	87,655
South Dakota	24,255	98.75%	307	1.25%	24,562
Alaska*	38,357	99.36%	246	0.64%	38,603
Connecticut*	**	**	**	**	82,857
Indiana	**	**	**	**	133,128
Wyoming	**	**	**	**	26,720

Unless otherwise noted, number of service retirees includes all survivors

¹ Maryland: number of retirees includes survivors disaggregated by service and disability

² Arizona: includes only data for public safety and correctional officers; data for state employees and teachers was not available

³ Kentucky: number of retirees is likely to be inflated because members are authorized to have multiple accounts

⁴ Massachusetts: includes only data for employees and law enforcement; data for teachers was not available

⁵ Pennsylvania: for school employees, number of retirees is for Fiscal 2013

⁶ New York: number of retirees includes survivors disaggregated by service and disability

⁷ Michigan: number of retirees includes survivors disaggregated by service and disability

⁸ Texas: for teachers, number of retirees includes survivors disaggregated by service and disability

⁹ North Dakota: number of retirees for highway patrol is for Fiscal 2013

¹⁰ Nebraska: includes only data for state patrol employees and school retirement systems; most state employees are in a cash balance plan

* Fiscal 2013 was the most recent data available.

**Disaggregated data was not available for Connecticut, Indiana, and Wyoming.

Average Amount Paid to Disability Retirees by State for Fiscal 2014
Sorted by Average Amount Paid

<u>State</u>	<u>Average Amount Paid to Disability Retirees</u>
Arizona ¹	\$41,852
Kansas	37,937
Massachusetts ²	35,025
Oregon	30,232
Ohio	29,117
Illinois	28,286
Alaska*	27,045
California ³	26,952
Nevada	25,700
Washington*	24,138
Rhode Island	22,768
Maryland⁴	20,670
Georgia	20,632
New Hampshire ⁵	20,430
Mississippi	20,405
Minnesota	19,795
Virginia	17,532
North Carolina	17,449
Pennsylvania	17,323
Louisiana	15,157
Kentucky	15,059
Montana	14,839
South Carolina*	14,437
Nebraska ⁶	14,204
South Dakota	13,983
Florida	13,924
Maine	13,733
Texas ⁷	13,227
New Mexico*	13,052
Vermont	12,720
Hawaii*	12,148
Delaware*	11,953
Alabama*	11,731
West Virginia	11,154
Iowa	11,063
Oklahoma	10,378
Arkansas	10,178
Michigan ^{*8}	9,659
Missouri ⁹	7,755
New Jersey	7,514
Tennessee	7,481

<u>State</u>	<u>Average Amount Paid to Disability Retirees</u>
North Dakota ¹⁰	4,129
Colorado	**
Connecticut*	**
Idaho	**
Indiana	**
New York	**
Utah	**
Wisconsin*	**
Wyoming	**
Average Paid	\$17,923

*Fiscal 2013 was the most recent data available

**Amount paid to disability retirees was not available

¹Arizona – includes only data for public safety and correctional officers; data for state employees and teachers was not available

²Massachusetts – includes only data for employees and law enforcement; data for teachers was not available

³California – for the State Teachers' Retirement System, amount paid includes survivors of disability retirees

⁴Maryland – amount paid includes survivors of disability retirees

⁵New Hampshire – amount paid includes survivors of disability retirees

⁶Nebraska – includes only data for state patrol employees and school retirement systems; most state employees are in a cash balance plan

⁷Texas – for teachers, amount paid includes survivors of disability retirees

⁸Michigan – amount paid includes survivors of disability retirees

⁹Missouri – amount paid for local government employees was not available

¹⁰North Dakota – includes only amount paid for teachers; amount paid for employees was unavailable

Report on Pension Forfeiture

**Presented to the
Joint Committee on Pensions**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

October 2015

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Report on Pension Forfeiture

During the 2015 legislative session the Pensions Subcommittee of the Senate Budget and Taxation Committee referred the issue of pension benefit forfeiture to the Department of Legislative Services for summer study, with a report to the Joint Committee on Pensions during the 2015 interim.

Maryland Legislation

The only forfeiture provision applicable to the Maryland State Retirement and Pension System (SRPS) is found in the Legislative Pension Plan (LPP). Under that provision, a member of the LPP¹ who is convicted of or enters a plea of *nolo contendere* to any crime committed during the term of office and the crime is a felony, or the crime is a misdemeanor related to the member's public duties and involves moral turpitude, is required to forfeit pension benefits. The forfeiture applies to both the member and the member's beneficiary.² If a forfeiture is imposed, the individual is entitled to a return of the individual's contributions, plus interest, but less any benefit payments already made, if any. If the conviction is overturned, the individual's benefits are to be restored.

A number of unsuccessful bills have been introduced in recent years pertaining to the forfeiture of benefits by SRPS members, former members, and retirees. Senate Bill 894/House Bill 1458 (2010) would have implemented a forfeiture process for members of the State Police Retirement System (SPRS) who were convicted of certain crimes. The crimes did not have to be related to the member's employment duties. The forfeiture only applied to special disability, or "line-of-duty", benefits, and a pending charge for one of the listed crimes would result in the suspension or prohibition of the application process for a special disability benefit.

House Bill 1251 (2011) also applied to the forfeiture of special disability benefits for members of SPRS. Again, the enumerated crimes that could trigger a forfeiture did not have to be related to the member's employment duties; the crime only had to be committed while the individual was a member. Similar to the 2010 legislation, a pending charge would result in the suspension or prohibition of the application process for a special disability benefit.

¹ Beginning with the term of office beginning in 2015, new members of the General Assembly are required to enroll in the LPP. Prior to that, membership was optional. To the extent an individual was not enrolled in the LPP, the forfeiture provision would not apply as that individual would not be a member of the LPP.

² The specific exclusion of beneficiaries in proposed Maryland legislation and the LPP is perhaps redundant. A beneficiary benefit is derivative of a member or former member becoming a retiree, choosing a benefit option that provides a surviving beneficiary benefit, and then dying. If benefits are forfeited, there is no survivor benefit to pass on. If an individual dies prior to conviction, there would be no forfeiture, and any applicable beneficiary benefits would take effect.

House Bill 572 (2012) would have implemented benefit forfeiture for a public official who is convicted of or enters a plea of *nolo contendere* to any crime committed during the term of office and the crime is a felony, or the crime is a misdemeanor related to the member's public duties and involves moral turpitude. The bill also included uncodified language clarifying that the law would apply prospectively to offenses committed on or after the effective date of the act. The bill was amended to establish a task force to study the issue of forfeiture for public officials, including identifying which officials should be subject to forfeiture.

Two bills were introduced during the 2014 legislative session. House Bill 377 and House Bill 1171 would have implemented benefit forfeiture for public safety officers who commit crimes while the individual was working and for which the penalty was at least one year of incarceration. House Bill 1171 included a broader selection of public safety officers, while House Bill 377 was limited to employees of the Department of Public Safety and Correctional Services. Both bills applied prospectively to offenses committed on or after the effective date of the acts. The bills were withdrawn by the sponsors.

Senate Bill 165 (2015) would have implemented benefit forfeiture for certain constitutional officers who are convicted of a crime that is related to the constitutional officer's public duties and responsibilities and for which the penalty may be incarceration of one year or more. The bill also allowed SRPS to recover from an individual's accumulated contributions any amounts paid to an individual after a forfeiture is ordered. The Budget and Taxation Committee's Pension Subcommittee referred the issue of benefit forfeiture to summer study and a report to the Joint Committee on Pensions.

Legislation in Effect in Other States

A number of other states have laws addressing the consequences on an individual's retirement benefits from a public system when the individual commits certain crimes. The approach among the states varies with respect to the individuals subject to those consequences, the applicable crimes that trigger those consequences, and the severity of those consequences. Twenty-nine states have laws directing forfeiture or reduction of retirement benefits when an individual is convicted of a crime. Some states have enacted laws that not only address the forfeiture of benefits but also address in detail the process by which a forfeiture is carried out. Other states have very broad provisions that leave much unsaid about the process. A handful of states do not have a benefit forfeiture *per se*, but do allow benefits to be offset to pay restitution connected with the conviction. **Appendix 1** provides a summary of the benefit forfeiture provisions by state, including whether the statute addresses each of the fundamental policy considerations, which this report will discuss. While no single state seems to have enacted an "ideal" model for Maryland to follow – if the will of the General Assembly is to pass legislation providing for the forfeiture of benefits – each of the major policy issues that should be considered have been addressed in some manner by at least one state.

Individuals Subject to Forfeiture

The identification of individuals subject to benefit forfeiture varies among states. Some states make reference to “public employee” or “public official,” while other states identify the application by applying forfeiture to a member of the retirement system. The latter approach is likely more efficient. If the issue is the forfeiture of a retirement benefit, the simpler method of identifying individuals who could be subject to forfeiture is to apply the forfeiture provision as a condition of membership. This reduces the risk of a forfeiture provision not applying to an individual due to an inarticulate or vague, generalized description of an individual who could be subject to forfeiture.

Most states also broadly apply the application of forfeiture to include all public employees or members of a system. Maryland is currently in the minority by applying benefit forfeiture only to members of the General Assembly.

Qualifying Crimes Triggering Forfeiture

The most common “trigger” for benefit forfeiture is a felony that is committed in the course of the individual’s role as a public employee or official, or is in some way related to the individual’s duties as a public employee or official. Twenty-six states require the offense to be related in some way to the individual’s public responsibilities. This includes an offense committed while employed, or an offense that the individual was able to commit because of the privileges conferred by the individual’s public position.

A few states allow forfeiture to be triggered for offenses that do not have to be connected to the public position. Georgia can impose forfeiture on a system member who is convicted of a drug related crime. In Iowa, a disability benefit is forfeit on conviction of a felony. Similarly, in Wyoming, a benefit is forfeited if an individual receiving a benefit is convicted of a felony. Maryland’s forfeiture provision in the LPP is also in this minority by allowing a forfeiture to be triggered by a conviction of any felony committed during the term of office.

Many states also specifically reference the crimes that would qualify for a forfeiture by listing the applicable statutes. Some states also specify that a violation of federal law can trigger forfeiture. The most common specifically named crimes are bribery, and crimes involving theft or fraud resulting in financial gain to the offender to the detriment of the government.

Application to and Effect on Spouses and Beneficiaries

If a retirement benefit is forfeited, the forfeiture may affect more than just the individual offender. The forfeiture of a benefit would also affect any spouse, dependent, or other beneficiary who would be relying on the benefit at present or in the future. Twelve states have included protections for spouses, dependents, and beneficiaries in their forfeiture laws. Generally, states that provide these protections allow for a benefit to be forfeited or reduced, instead of just a straight forfeiture of benefits. The reduced benefit is then used to provide benefits to a spouse, dependent, or other beneficiary. The ability to reduce a benefit provides flexibility to direct payment of

benefits to a spouse, dependent, or beneficiary instead of the offender. Connecticut and New York laws give courts authority to take into consideration a number of factors and use their discretion when determining whether the penalty for conviction should be forfeiture or reduction of benefits. The adverse effect of a full forfeiture on an offender's family can then be taken into account to provide a more equitable punishment and to avoid extending the punishment to innocent family members. In states that provide this protection, there is also generally a requirement that the beneficiary of this protection is not culpable in the offender's crimes. Maryland's forfeiture provision in the LPP does not provide this protection for spouses, dependents, or beneficiaries.

Effect on Domestic Relation Order

Most states with forfeiture provisions are silent on the impact of a forfeiture on a domestic relations order (DRO). A DRO can allow a divorced spouse to receive a portion of a retirement benefit. The payment is usually a percent of the benefit, which is payable once the employee retires. Silence on the effect of a forfeiture on a DRO creates uncertainty with respect to a former spouse's rights to the ordered portion of benefits. Consistent with the concept of protecting the availability of benefits for innocent relations of an offender, New York and Vermont have addressed this issue by including specific protections for DROs in their forfeiture laws. Silence on this issue in some other states may be attributable to protections of property interests already afforded to divorcing spouses. Arizona and Louisiana both reference protections for community property.

Return of Employee Contributions

Contributions made by an individual to a retirement system over the course of their career are the property of the individual. Twenty states have provisions specifically providing for the return of member contributions to an individual who is subject to a forfeiture. Seven of those states do not include earned interest with the return of contributions. Seven states do not specifically address the return of member contributions. Six states allow for member contributions to be withheld to satisfy any criminal restitution related to the conviction.

Reversal Process

Many states have statutes that are silent on the effect of a conviction being overturned on appeal, and provide no process or instruction on how and whether an individual's forfeited benefit can be reinstated. Other states have provisions that specify that a forfeiture is not applicable if a conviction is overturned on appeal. There is very little detail on the process by which a benefit would be reinstated, and only a few states address the issue of requiring a redeposit of returned contributions.

As the forfeiture of benefits is implemented as an additional punishment for criminal activity, benefits should be restored if a conviction is overturned. An individual is not subject to further incarceration if a conviction is overturned. Following that same principle, an individual would likely be successful in challenging a continued forfeiture of benefits after a conviction is overturned. Given this likelihood, states that affirmatively provide for reinstatement of benefits

have taken the more prudent approach. However, as discussed below, there are multiple considerations that should be addressed when providing for a reinstatement of benefits when a conviction is overturned.

Administration of Forfeiture

Some states specify the office or individual responsible for initiating the process of a benefit forfeiture. Other states are silent on the matter. The implementation of a forfeiture may be one of the more difficult aspects of passing a forfeiture law. Forfeiture asks a retirement system to enforce a criminal sanction after the conclusion of a criminal process to which it is not a party. A forfeiture process also begins with the criminal justice system, which may not have the resources and information available to consistently identify individuals who would be subject to a benefit forfeiture if convicted. This can be further complicated if an individual is charged years after having left their State position. If benefit forfeiture can be triggered by crimes unrelated to an individual's public duties it would increase the risk of failing to identify an individual who should be subject to forfeiture.

Policy Considerations

There are multiple policy issues to consider when deciding whether to implement a retirement benefit forfeiture. The first is the generally broad protections afforded retirement savings in both the United States and currently in the Maryland SRPS. Crimes that would qualify to trigger a forfeiture would need to be specified, as well as whether those crimes would need to be committed in connection with the individual's public duties. The public employment positions to which a forfeiture would apply would also need to be specified. Finally, the scope of a forfeiture (full or partial), the extent of its application (whether to preserve benefits for spouses and dependents), the process for initiating and enforcing a forfeiture, and the administrative burdens of implementing a forfeiture are all issues that would need to be clarified.

Protection of Retirement Savings

In Maryland and under federal law, there is a general preference to protect retirement savings against outside claims of creditors. The broad policy is to protect retirement savings to preserve them for use in retirement. Section 21-502 of the State Personnel and Pensions Article provides protections for SRPS member and former member accounts, and for benefits of retirees. Subsection (b) does provide a limit exception to this for assignments included in a decree or order of alimony, child support, or divorce, or in a court-approved property settlement incident to a court decree or order.

Similarly, § 11-504(h) of the Courts and Judicial Proceedings Article exempts interest in money or assets in a retirement plan qualified under the United States Internal Revenue Code from claims of creditors. Additionally, interest in plans governed by the federal Employee Retirement Income Security Act (ERISA) are generally exempt from attachment or garnishment from

creditors. However, ERISA covered funds may be made available for criminal restitution in certain instances, or to satisfy tax obligations.

Applicable Offenses

The threshold question regarding applicable offenses is whether the commission of a qualifying offense needs to be committed in the course of one's public duty (or is made possible by the public position held), or whether the mere commission of a designated crime would be enough to trigger benefit forfeiture. As previously discussed, the large majority of states require their qualifying crimes to be committed in relation to the individual's public duties, and Maryland's existing provision in the LPP is in the minority on this issue.

When the qualifying crimes need to be related to public duty, it can make enforcement easier. If an individual is charged with a crime involving their public duties, the employing governmental unit would be involved in the investigation and would be in a position to notify the prosecutor and the retirement system of the pending charges so that the case can be tracked. If a crime does not have to be related to public duties, an individual could evade forfeiture. Evasion could be more likely if the crime was committed in another state and the individual has since left the Maryland position.

Employees Subject to Forfeiture

Currently under Maryland law, only members of the General Assembly could be subject to a benefit forfeiture. Legislation introduced over the past few sessions has also generally focused on particular employee groups, such as State Police and constitutional officers. As previously indicated, most states with forfeiture laws apply their laws broadly to include all members of a retirement system.

Prospective Application

In Maryland, when there is a challenge to changes in pension benefits in the SRPS, courts will apply a "contract analysis" when determining if a challenge to the changes will succeed in overturning the changes. A court will first determine whether a contract obligation exists, whether the legislative action retroactively impairs the contractual obligation, and whether the impairment is substantial. If the court determines there has been a substantial impairment, the court will then determine whether the action is permissible if it is reasonable and necessary to serve an important public purpose. Maryland case law has consistently upheld changes that applied prospectively – that is, changes that don't affect any vested benefits earned prior to the effective date of the changes. Similarly, a law that would diminish a vested benefit earned prior to the law's effective date would be much more at risk of being overturned if challenged. An example of a Maryland pension law being constructed consistent with the principle of prospective application is the change made to cost-of-living (COLA) adjustments to benefits during the 2011 legislative session. Under that law, all service credit earned by a system member on or after July 1, 2011, would be calculated under a new formula when determining a COLA for a retiree. Any service credit earned prior to July 1, 2011, would be calculated under the formula in effect prior to the

change, thus avoiding diminishing the value of what had already been earned. When considering the implementation of benefit forfeiture, the General Assembly should be aware of the risk of legislation being overturned if it is found to retroactively diminish a vested benefit.

With regard to enacting a benefit forfeiture process, there are multiple points at which prospective application will need to be addressed. The first point is prospective application from the date of enactment. Time earned prior to enactment of a benefit forfeiture process has already been earned by system members. To avoid retroactively diminishing the value of that earned service credit, any service credit earned prior to the enactment of a benefit forfeiture process should be excluded from the forfeiture process. This would have no effect on future hires, but would clarify the protection of vested benefits already earned by active members at the time of enactment.

The second point at which prospective application should be considered is its effect on service credit earned prior to when a qualifying crime is committed. This is less clear cut than prospective application from the time of enactment. This issue is whether forfeiture would only apply to service credit earned after the commission of a qualifying crime, or whether forfeiture would apply to all service credit earned (after the date of enactment). Take for example an individual who works 15 years, commits a qualifying crime, and works 5 more years before the crime is discovered and the individual is convicted. If forfeiture only applies to service credit earned after the commission of a qualifying crime, then in this example the individual would forfeit the 5 years earned after the crime was committed, but retain eligibility for a benefit based on the 15 years earned prior to the commission of the qualifying crime. If forfeiture applies to all service credit earned, then the individual in this example would forfeit all 20 years of service.

The main distinction between the two options is that under the second option, the commission of a crime could result in the forfeiture process reaching back and applying to service credit earned prior to the commission of the offense. If an individual commits a qualifying offense at the end of a career, that individual would lose all service earned, as opposed to a small reduction in benefits in a situation where a qualifying crime was committed near retirement. If an individual were to forfeit all service credit, including service credit earned prior to the commission of a qualifying crime, then it may be possible for such an individual to challenge that forfeiture as a diminution of a vested benefit. An individual could argue that the service credit earned prior to the commission of a crime created an eligibility for a benefit (including health benefits), so forfeiting all service credit could be seen as a retroactive diminution of a vested benefit. On the other hand, it could also be argued that there is no diminution of a vested benefit because the events, which would trigger a forfeiture, are completely in the control of the individual.

Another area where prospective application should be considered is the date on which a qualifying crime is committed. The U.S. Constitution and the Constitution of Maryland both prohibit *ex post facto* laws. An *ex post facto* law is a law that imposes a criminal sanction for an action occurring before the law's effective date. Essentially, a punishment is enacted or enhanced after the fact, leaving the individual without notice that the conduct is illegal or what the punishment will be, and leaving no opportunity to avoid engaging in the conduct. Laws that enact additional criminal sanctions, should apply prospectively to avoid being considered an *ex post facto* law. Since a benefit forfeiture would be considered an additional criminal sanction,

benefit forfeiture should only be triggered by a qualifying crime that is committed on or after the effective date of any legislation enacting a benefit forfeiture process. Maryland legislation introduced in recent years has included language clarifying that the proposed forfeiture would not apply to crimes committed before the effective date of enactment.

Another issue concerning prospective application is how to treat a charge and conviction which occur after an individual is already retired and drawing a monthly allowance. If an individual is not yet retired, the process is less complex, because any forfeiture that is implemented, can be implemented before payment of a benefit begins. But, if an individual has already been drawing a retirement benefit, the forfeiture would be implemented after payment of benefits. If forfeiture only applied moving forward from the date of conviction, then there is potential for disparate treatment of individuals who have committed crimes. All things being equal, if there are two individuals who commit the same offense, and have the same amount of service credit and will receive the same benefit payments, but one of the individuals is charged and convicted prior to retirement, and the other is charged and convicted after having been retired, the retired individual would receive payments which the first individual would not. To mitigate this, there should be a process to recover payments made that are attributable to service credit that is forfeited after an individual has already retired. Some states do address this and require offsets against return of contributions. Similar language has also been included in previously introduced legislation in Maryland. If authority is given to recover payments made prior to a forfeiture, SRPS may have the ability under its existing authority to correct and recover improper payments, but it would be preferable to make this clear in any enacted legislation.

Full Forfeiture vs. Partial Forfeiture

Some states do not require full forfeiture of benefits but give the court discretion over whether to forfeit the benefit or reduce the benefit. This authority allows the punishment to fit the crime committed, and protects against extreme results that may not be contemplated. Some states limit the amount of forfeiture to the damages incurred as a result of the criminal activity, or direct benefits for restitution. This allows for the injured parties to receive compensation while preserving some retirement security for the offender. In a model capping forfeiture to the amount of restitution, a full forfeiture could still be possible if the damages exceed the value of the earned benefits. In addition to preserving some level of retirement income for an offender, partial forfeiture also allows a mechanism to protect spouses and beneficiaries, as discussed below.

If prospective application is applied to only forfeit service credit earned after the commission of a qualifying crime, then forfeiture in that instance would be partial. Similarly, an individual who began service prior to enacting a forfeiture law would also have service credit preserved and be subject to a partial forfeiture. Partial forfeiture may also allow an individual to retain access to participation in the State health plan as a retiree.

Unlike partial forfeiture, a full forfeiture may be a greater deterrent to potential offenders. If an individual has accumulated a large amount of service credit, and is planning on retiring in the near future, the risk of losing a small amount of benefits may not be a sufficient deterrent. Additionally, an individual with a longer service record is more likely to be in a position providing

greater opportunity for wrongdoing, particularly with respect to theft and other financial crimes. Also, the additional risk of losing eligibility for retiree health benefits for the individual and their beneficiaries could serve as an additional deterrent.

Innocent Spouses and Beneficiaries

Some states, while requiring forfeiture, allow forfeited benefits to be paid to a spouse or other dependents, recognizing that a loss of an employee's benefit is not merely a loss to the employee, but a loss to the family unit which may be dependent on that future income. The exclusion of a spouse or dependents from the earned benefits could be viewed as extending a punishment for criminal actions to innocent family members. States that do allow for a spouse or dependents to receive benefits which are forfeited by the public employee, do generally require an inquiry as to whether there is any shared culpability or knowledge of the criminal activity that would preclude receipt of forfeited benefits. This approach maintains the general policy of denying benefits to wrongdoers, while also maintaining flexibility so as to avoid extending punishment to innocent family members.

The legislation that has been introduced in Maryland in recent years, and the provision in place in the LPP, requires full forfeiture of benefits. Language in those bills and the LPP further indicated that a beneficiary is not entitled to benefits when a forfeiture occurs. It should also be noted, that depending on the years of service, certain retirees can qualify for participation in the State health plan as well as a premium subsidy. However, participation in the State health plan is contingent on receiving a periodic retirement allowance, so if a benefit is forfeited and the forfeiture applies to spouses and beneficiaries, then the spouse and beneficiaries would not be able to participate in the health plan.

Forfeiture of all benefits, including retroactive forfeiture and forfeiture of multiple plan membership, would have a more adverse impact on surviving spouses and beneficiaries, particularly if there is a DRO in place. A full forfeiture of all benefits would adversely affect an existing DRO, as there would be no benefit of which to take a percentage to pay the former spouse.

Multiple Plan Membership

Further clarification would be needed to address a situation where an individual has a vested benefit in one system, then changes jobs and earns another benefit in a different system. If that individual commits an offense while a member of the subsequent plan, any law enacted should be clear about the effect on the benefit earned in the prior system. If the decision is to apply a limited prospective application and full forfeiture of all benefits, then an individual with vested benefits in multiple systems would lose all earned benefits, regardless of whether an individual was an active member of a system when the qualifying crime was committed. This would result in a member losing benefits due to an incident that has no nexus to the benefits previously earned. If the decision is to apply a more stringent prospective application or to require a qualifying crime to be related to the employment duty, then benefits earned in other systems would be preserved.

Additionally, if benefits are forfeited, an individual should probably be precluded from purchasing prior service credit if they are subsequently rehired and enrolled in the SRPS plan. This could be accomplished by precluding subsequent membership after a forfeiture like in other states.

Return of Contributions

In the SRPS, an individual is entitled to a return of the contributions they have made to the system if they do not vest for a benefit or they decide to withdraw their funds before receiving a retirement allowance. If a forfeiture law is implemented in Maryland, an individual subject to forfeiture should have their contributions returned, similar to a member who withdraws from the system, since they would not be receiving a retirement allowance. The issue here is whether the individual would be entitled to the interest credited to their contributions. The provision currently in effect in the LPP would include return of contributions with interest.

Some states do not allow for the interest earned on employee contributions to be returned to the individual. In Maryland, employee contributions are the employee's property and earn interest. Even if a member leaves State service before vesting, the individual still earns interest for up to 4 years. If a law is passed that does not allow for return of interest, it could be viewed as a diminution of a vested benefit, as interest is paid even to non-vested individuals. To avoid a legal challenge, any law enacted should be limited in application to interest accumulated after the enactment of the law, or also be limited to interest earned after the commission of the qualifying offense, the latter providing the least likelihood of a successful legal challenge.

If forfeiture applies only to forfeit service credit earned after the crime, the return of contributions should be limited to returning the portion attributable to the service credit being forfeit. This ensures SRPS would retain the contributions used to fund the benefit, as is the case with all other retirees. When an individual retires and draws a benefit, the individual cannot then decide to withdraw their contributions. Similarly, if an individual who has already retired becomes subject to a forfeiture, a decision would need to be made clarifying the return of contributions. The states that address this are consistent (including Maryland's LPP provision) that if a forfeiture is implemented against an individual who has already retired, the returned contributions are reduced by the amount of payment received. One other issue that would need to be resolved is what action SRPS would take if retirement payments to an offender subject to forfeiture exceed the amount of accumulated contributions.

Additionally, before returning an individual's employee contributions, some states will use the contributions to satisfy restitution orders pertaining to the crime. For example, if an employee has \$100,000 in contributions, but the court orders the individual to make restitution of \$40,000 for a theft conviction, the individual's contributions would be used to satisfy the restitution order, leaving the employee with \$60,000 in returned contributions. This provides for injured parties to be made whole by using the available resource of the employee contributions. Depending on the approach taken regarding prospective application, the use of employee contributions for restitution may be limited. If the enacted forfeiture applies only to service credit earned after the commission

of the offense, then only employee contributions attributable to the service credit being forfeited would be returned and available for restitution payments.

When member contributions are withdrawn from the system, an individual ceases membership and all the benefits of membership. If a conviction is overturned, the individual should be restored to the position they were in prior to the forfeiture. Other states that address this issue are consistent in their affirmation that the individual should be entitled to their retirement benefit. However, this could be problematic if contributions have already been returned. In that instance, a member would be restored their years of service credit and eligibility for benefits, but the system would not continue having the employee contributions available for investment and payment of benefits. A few states address this issue by requiring an individual to redeposit the returned contributions. While this sounds simple enough, there are a few potential issues that may arise.

The costs of defending a criminal case can be substantial. These costs only grow when appealing a criminal conviction. Employee contributions and interest can amount to a substantial amount of money, especially if an employee has been working for a long time. It is entirely possible that returned contributions would be used to cover the legal expenses incurred in defending a case during the underlying trial phase and to cover the costs of appealing a conviction. Even if the individual only used a portion of the returned contributions, any reduction in the value of the contributions leaves less money available to redeposit with the SRPS. If a full redeposit is required to regain eligibility for a benefit, an individual may be left in the unfortunate position of having used their accumulated contributions to clear themselves of a charge only to find themselves in the position of someone who had been convicted: without a system benefit.³ If an individual were allowed to rejoin without a full deposit, but applying an actuarial offset to the benefit, that individual is still in the position of being penalized by having a reduced benefit to account for the actuarial offset. On the other hand, if an individual were allowed to rejoin without a full redeposit, the system would be shortchanged. Also, this could create an incentive to spend down the returned contributions, effectively giving an individual a “bonus” for being charged with a crime, which the vast majority of system members would never have available to themselves.

Under current law, an individual who is not actively employed may withdraw their contributions upon request. This could complicate matters involving a forfeiture. SRPS would need to track whether withdrawn contributions were withdrawn at the request of an individual, or if they were returned in accordance with the forfeiture procedure. Redepositing withdrawn contributions that were not returned in accordance with the forfeiture procedure should not be allowed to be redeposited under the forfeiture procedure; they should be treated like any other withdrawal.

If member contributions were not returned until all appeals have been exhausted, many of the potential issues arising out of an overturned conviction would not manifest. If the return of contributions required a request from the individual, it would place the decision to withdraw

³ To complicate this further, if an individual’s accumulated contributions were returned prior to being eligible to retire, the individual could be subject to a tax penalty if the funds are not rolled over. If the funds are used for expenses in overturning a conviction, the individual could be faced with having to redeposit more money than they were able to use for their defense costs.

contributions in the hands of the individual, as well as the consequences of a withdrawal. This would alleviate the need to track the type of withdrawal, and would eliminate the risk of an individual spending returned contributions and not having them available for redeposit.

Implementation of Forfeiture Process

The SRPS is responsible for administering the benefits of system retirees. Therefore, it should be notified when an individual is charged and convicted of a qualifying crime that is subject to forfeiture, as they are the entity that would implement a forfeiture. However, the SRPS is not in a position to monitor the criminal dockets of the 24 Maryland jurisdictions, as well as the federal dockets. The prosecuting authorities in a jurisdiction are the best resource for knowing when a charge and conviction occur, as they are responsible for bringing and prosecuting crimes. However, a prosecutor may not be aware of an individual's membership or retirement status in the SRPS, nor are they in a position to know when one of their defendants is one of the almost 400,000 members, former members, and retirees of the SRPS. As indicated above in the discussion of applicable offenses, the employing governmental unit is in the best position to become aware of pending charges and convictions. Placing the burden of initiating the forfeiture process on the employing governmental unit by notifying the prosecutors and the SRPS would be the most efficient and sure means of ensuring the forfeiture process is carried out, particularly if the qualifying crimes need to be committed in relation to the individual's public duties.

Another consideration regarding administration of forfeiture is the venue in which the forfeiture occurs. Some states have the process handled during the underlying criminal proceeding. Others allow for a separate judicial determination to be made, and some implement the forfeiture administratively by the retirement system. Still, other states are silent on the process and venue. Implementing a forfeiture through the courts would ensure all the necessary due process protections of an individual subject to forfeiture. However, depending on the nature of the forfeiture – such as a partial reduction or awarding benefits to a spouse or dependents – a court may not have the technical expertise to effectively make certain decisions. Allowing the process to be handled administratively by the SRPS, with judicial review could be a more effective process. The proper venue and process for a forfeiture should be established in consideration of the manner of forfeiture imposed.

Other considerations

Since a dead person cannot be convicted and an unfinished case dies with the person, forfeiture of retirement benefits could be an incentive for an individual to commit suicide to preserve benefits for surviving family members. This incentive would grow depending on how harsh the forfeiture penalty is. The approach taken by states that provide spousal, dependent, and beneficiary protections would likely mitigate this effect. If forfeiture is not required, and a judge can direct earned benefits to a surviving spouse or beneficiaries, there is no incentive for the offending individual to attempt suicide due to the pending forfeiture.

One final consideration to be made is the application of benefit forfeiture to special and accidental disability retirement benefits. A special or accidental disability retirement is

a “line-of-duty” benefit provided to members who are incapacitated for further duty as a result of performing their job duties. The line-of-duty disability retirement is essentially compensation for job-related injuries. It may be viewed as unfair to allow for a benefit forfeiture of a line-of-duty disability retirement, since the benefit is compensation for a work related disability. However, protecting line-of-duty disability retirements against forfeiture could result in members who know they have committed a qualifying crime engaging in more reckless behavior at work to acquire a line-of-duty disability benefit, or may encourage fraudulent applications for line-of-duty disability benefits.

<u>State</u>	<u>Forfeiture Provision</u>	<u>Qualifying Crime</u>	<u>Related to Duty</u>	<u>Reversal Process</u>	<u>Beneficiary Protections</u>	<u>Beneficiary Culpability (if Beneficiary Benefit Retained)</u>	<u>Prospective Application</u>	<u>Return of Employee Contributions</u>	<u>Affect on Domestic Relation Order</u>	<u>Forfeiture Notification Process</u>	<u>Other</u>
Alabama	36-27D-1; Members of TRS, ERS, and JRF convicted of a felony related to public position to forfeit; employee contributions refunded; not retroactive	Felony related to public position	Yes	Silent	Silent	Silent	No, all time is forfeit	Yes	Silent	Silent	No criminal or civil liability for employees of retirement systems
Alaska	37.10.301; Public officer, legislator, legislative director who is convicted of a federal or state felony, bribery, receiving bribe, perjury, subordination of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or evasion may not receive state pension benefit if the offense was in connection to the person's duties; benefits accrued up to date of commission of offense are not impaired; forfeiture does not apply to insurance, wage reductions, health benefits, or member contributions; protection for spousal and dependent benefits; spousal complicity provision	Federal or state felony of bribery, receiving bribe, perjury, subordination of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or evasion	Yes	Silent	Spousal and beneficiary protections	Yes	No, all time is forfeit	Yes	Silent	Silent	
Arizona	13-713; Public pension plan participants convicted of or pleading no contest or guilty of a felony committed in the course of public employment subject to mandatory forfeiture by court order	Felony committed in course of employment	Yes	Silent	Spousal and beneficiary protections	Yes	All time earned after enactment	Yes, with interest	"Community property" referenced	Court to notify system	Ineligible for future membership
California	Government Code 7522.70, 7522.72, 7522.74, and 75033.2; Felony related to public duties; felony conviction for individual who has contact with children as part of duties if conviction is felony against or involving child who they have contact with as part of their duties	Felony related to public position	Yes	Yes	Silent	Silent	Yes, only post-offense time forfeited	Yes, without interest	Silent	Yes: duty on member and member employer	
Connecticut	1-110a; Any state employee or official convicted of or who pleads guilty or <i>nolo contendere</i> to a crime related to state or municipal office, the attorney general shall apply to reduce or revoke benefits; not absolute forfeiture, judge has discretion to reduce or revoke based on consideration of factors	Any crime related to office	Yes	Silent	Spousal and beneficiary protections	Protections for innocent spouse, beneficiaries; some or all of reduced benefit can be paid to spouse or beneficiaries	Silent	Silent	Silent	Attorney General has to notify prosecutor	Not absolute forfeiture; judge has discretion based on factors to determine reduction/ revocation; also forfeiture shield for individual who alerts officials to the crime of someone more culpable
Florida	112.3173, 121.091, 794.09, 800.04, and 800.05: Finding of guilt or plea of guilty or <i>nolo contendere</i> or embezzlement or theft from employer, bribery in connection with employer shall forfeit benefits; elected official convicted by the Senate of an impeachable offense shall forfeit; member who violates state law against strikes by public employees shall forfeit; felony committed against victims younger than 16 (statutory sex acts) or younger than 18 (sexual battery) forfeits benefits if involving use of power/rights/etc. of public office; a beneficiary who intentionally kills the member forfeits benefits	Theft, embezzlement from employer, bribery in connection with job; elected official impeachable offense; sex crimes against victims involving use of public office; anti-strike violation; beneficiary kills member	Yes	Yes	Silent, but presumed no benefits since member loses rights to benefits	No benefits if beneficiary kills the member	No, all time is forfeit	Yes	Silent	Yes; clerk of a court or Secretary of Senate to notify Commission on Ethics of proceedings; Commission on Ethics to notify governing body of applicable system; board to give notice and hearing for determining forfeiture	

<u>State</u>	<u>Forfeiture Provision</u>	<u>Qualifying Crime</u>	<u>Related to Duty</u>	<u>Reversal Process</u>	<u>Beneficiary Protections</u>	<u>Beneficiary Culpability (if Beneficiary Benefit Retained)</u>	<u>Prospective Application</u>	<u>Return of Employee Contributions</u>	<u>Affect on Domestic Relation Order</u>	<u>Forfeiture Notification Process</u>	<u>Other</u>
Georgia	47-1-22, 47-1-22.1, 47-1-22.2, 47-1-23, 47-1-24, 47-1-25; Public employee who commits a public employment related crime in the capacity of a public employee shall have benefits reduced by three times the amount of the economic impact of the crime; benefit payments shall cease until the amount has been paid, and then benefit payments to the retiree resume; "benefit" does not include return of employee contributions without interest; if convicted of drug related crime before vesting, membership terminates and employee contributions are returned without interest; if convicted of a drug related crime after vesting, membership terminates and right to benefit shall be determined as of date of conviction; person who murders or voluntary manslaughters a member/retiree cannot receive benefits or refund of contributions	Public employment crime in capacity of public employment; drug related crime	Yes, but also drug offenses trigger	Silent	Yes; unclear but appears to allow recovery of three times damages from survivors benefits	No benefits if beneficiary kills the member	Applies to employees hired after July 1, 1985	Yes, without interest	Silent	Yes; prosecutor shall notify former employer and retirement system; former employer shall notify retirement system	Not a forfeiture <i>per se</i> ; similar to a garnishment for payment of damages
Illinois	40 ILCS 5/2-156, 40 ILCS 5/3-147, 40 ILCS 5/5-227, 40 ILCS 5/7-219, 40 ILCS 5/8-251, 40 ILCS 5/9-235, 40 ILCS 5/12 No benefits shall be paid to a member who is convicted of a felony relating to or arising out of or in connection with service as a member; no impairment of contract or vested rights and return of contributions are not precluded	Felony related to public position	Yes	Silent	Silent	Silent	Silent; unclear if vested credit earned prior to offense is payable or if that is a reference covering enactment in 1955	Yes	Silent	Silent	
Iowa	410.8 and 411.6; Disability benefit forfeited for conviction of felony; retiree who is incarcerated shall not receive benefit if retiree has a spouse or child	Felony	No	Silent	Silent; benefits paid to spouse or child while	n/a	No; no disability benefit can be paid	Silent	Silent	Silent	Only disability benefit is forfeit
Kentucky	6.696, 61.535, and 161.470; Legislator convicted of felony related to duty; employee convicted of felony related to employment; benefit payments stayed during appeal	Felony	Yes	Yes	Silent	Silent	Prospective application by date of hire	Yes, with interest	Silent	Silent	
Louisiana	Art 10, sec. 29, LRS 11:293; Forfeiture on conviction of felony associated with and committed during service in public office or employment; statute specifies condition of realized or attempted financial gain, or criminal sexual act with a minor if association between minor and public servant was related to employment; can be forfeiture or garnishment	Felony with willful action and finding of financial gain or criminal sexual act	Yes	Silent	Spousal and beneficiary protections	Yes	Prospective application by date of hire; forfeiture can apply to all benefits earned on or after January 1, 2013	Yes, without interest	Forfeiture cannot impinge on community property interest of former spouse	Secretary of State to notify retirement system	
Maine	5 MRS 17062; If member is convicted or pleads no contest to a crime committed in connection with public office or employment, and employment placed member in position to commit the crime, benefits may be forfeited, used for restitution, or be awarded to a spouse, dependent, or former spouse	Crime committed in connection with public office or employment	Yes	Silent	Spousal and beneficiary protections	Yes	Silent	Yes, without interest	Silent	Silent	
Maryland	Benefit forfeiture for members of legislative pension plan only; felony or misdemeanor related to member's public duties and committed during term	Felony or misdemeanor related to public duty	Mixed	Yes	No	n/a	Implied	Yes, with interest	Silent	Silent	
Massachusetts	32 MGL 15; Forfeiture of benefits and contributions for misappropriation of funds in the amount misappropriated and investigation costs; forfeiture for conviction of criminal offense applicable to the position; benefits may be received if restitution is made	Misappropriation of funds; extortion; corrupt gifts	Not explicit	Silent	No	n/a	Silent	Contributions can be subject to restitution	Silent	Silent	Retirement benefits received shall be repaid
Michigan	38.2704; Authorizes a court to order forfeiture of a member or retiree for a felony arising out of service as a public employee	Felony arising out of service	Yes	Silent	Yes, at retirement age of offender, beneficiary receives	Silent	Yes, only post-offense time forfeited	Yes	Silent	Court to notify system	Medical coverage shall be provided to offender and beneficiaries

<u>State</u>	<u>Forfeiture Provision</u>	<u>Qualifying Crime</u>	<u>Related to Duty</u>	<u>Reversal Process</u>	<u>Beneficiary Protections</u>	<u>Beneficiary Culpability (if Beneficiary Benefit Retained)</u>	<u>Prospective Application</u>	<u>Return of Employee Contributions</u>	<u>Affect on Domestic Relation Order</u>	<u>Forfeiture Notification Process</u>	<u>Other</u>
Missouri	MRS 104.1084.8; Members of the general assembly and statewide elected officials are not eligible for retirement benefits based on service rendered on or after 8/28/99 on commission of a felony committed in connection with duties	Felony in connection with duty	Yes	Yes	Silent	n/a	Yes, only time earned on or after 8/28/99 can be forfeited	Silent	Silent	Silent	
New Jersey	NJS 2C:51-2, 43:1-3, and 43:1-3.1; Person holding public position commits a crime touching the office or employment shall forfeit pension in system participating in when offense committed	Coercion, theft exceeding \$10,000, extortion, bribery, money laundering, perjury, false contract payment claims, tampering with witnesses and public records, official misconduct	Yes	Yes	Silent	n/a	Silent	Silent	Silent	Silent	Forfeiture can be stayed by trial court
New York	156-159 "Pension Forfeiture for Public Officials"; Public officials who commit a felony of larceny of public funds, felony committed to defraud or realize profit through use of position as a public official, and felony committed in direct connection with service can have pension reduced or revoked	Felony of larceny of public funds, felony committed to defraud or realize profit through use of position as a public official, and felony committed in direct connection with service	Yes	Yes	Spousal and beneficiary protections	Yes	Yes, from date of enactment	Yes, without interest; subject to satisfying restitution	Domestic relation order in place shall not be annulled or modified	District attorney or Attorney General initiate process by notifying retirement system and defendant	Court to consider proportionality of forfeiture to the crime committed; court has broad discretion to ensure justice
North Carolina	NCGS 120-4.33, 120-4.33A, 128-38.4, 128-26(w), 128-38.4A, 135-18.10, 135-18.10A, 135-75.1, 135-75.1A, 143-166.30(g1), 143-166.50, 58-86-100; Forfeiture for crimes related to service, including bribery, fraud, election law violations	Specified federal and state felonies; perjury	Yes	Yes, requires repayment of returned contributions plus 6.5% interest	Silent	n/a	Silent	Yes, with interest	Silent	Silent	
Ohio	ORC 2929.192, 2929.194, 145.574, 742.37, and 5505.17; Forfeiture of benefits for commission of felony committed while serving in a position of honor, trust, or profit; disability benefits forfeit if a felony was the cause of the disability	Felony third degree bribery, corruption, theft in office	Implied	Silent	Silent	Silent	Offenses comitted on or after 5/13/2008	Yes, with interest	Silent	Trial court determines forfeiture; hearing notification process	
Oklahoma	11 OK Stat 11-1-110; Employee forfeits pension on conviction for felony bribery, corruption, forgery, or perjury, or any other crime realted to the duties of employment	Felony bribery, corruption, forgery, or perjury, or any other crime realted to the duties of employment	Yes	Yes	Silent	n/a	Benefits vested as of date of enactment cannot be forfeited	Yes for prior to effective date; unclear after that	Silent	Prosecuting attorney to notify retirement sytem	
Pennsylvania	43 PA Statutes 1311-1315; Forfeiture when crime committed by public official or employee through office or position	Theft, forgery, failure to make disposition of funds; tampering with records; misapplication of property; bribery; perjury; false swearing; obstruction; tampering with evidence; witness intimidation; and equivalent federal offenses	Yes	Silent	Silent	n/a	Prospective from 12/1/1972; unclear as to how this applies	Yes, without interest; contributions can be withheld to pay fines imposed and to repay funds	Silent	Silent	
Rhode Island	Chapter 36-10.1;Forfeiture or reduction for embezzlement, theft, bribery, gaining financial advantage throuhg public fraud	Embezzlement, theft, bribery, gaining financial advantage through public fraud	Yes	Silent	Spousal and beneficiary protections	No	Offense occurring after 1/1/1993	Yes, without interest; subject to garnishment for restitution	Silent	Retirement board to initiate process if court does not order forfeiture	

<u>State</u>	<u>Forfeiture Provision</u>	<u>Qualifying Crime</u>	<u>Related to Duty</u>	<u>Reversal Process</u>	<u>Beneficiary Protections</u>	<u>Beneficiary Culpability (if Beneficiary Benefit Retained)</u>	<u>Prospective Application</u>	<u>Return of Employee Contributions</u>	<u>Affect on Domestic Relation Order</u>	<u>Forfeiture Notification Process</u>	<u>Other</u>
Tennessee	TCA 8-35-124; Forfeiture on conviction of a felony arising out of the employees or official's employment or official capacity	Felony	Yes	Yes	Spousal and beneficiary protections	Silent	Prospective from date of hire	Yes, with interest	Silent	Employer to notify retirement system of conviction	Provision declaring member consent to forfeiture provision
Texas	TGC 839.003; State judge can lose pension if removed from office for misconduct	Judicial impeachment	Implied	Silent	Silent	Silent	Silent	Silent	Silent	Silent	
Vermont	Title 32, Chap 007, Subchap 007, 621; Judge may order public employees convicted of a crime relating to public theft, embezzlement, fraud to forfeit all or part of their pension benefit; forfeiture cannot exceed 10 times the the monetary loss to the state	Theft, embezzlement, fraud, <i>etc.</i>	Yes	Silent	Spousal and beneficiary protections	Yes	Silent	Yes, with interest; subject to restitution	Protection for domestic realtion order issued prior to conviction	Attorney General shall file complaint to initiate forfeiture	Forfeiture invalid if inconsistent with IRS status of plan; provision declaring member consent to forfeiture provision
Virginia	51.1-124.13; Forfeiture for conviction of felony arising from misconduct occurring on or after July 1, 2011	Felony	Yes	Silent	Silent	n/a	Offenses comitted on or after 7/1/2011	Silent	Silent	Employer makes determination; written notice and hearing required; general administrative process to follow	
West Virginia	5-10A-1 through 11; Forfeiture for felony committed while employed and related to office or employment	Impeachment; felony related to employment	Yes	Silent	Beneficiary protection	n/a	Prospective from date of enactmet	Yes, with interest; subject to restitution	Silent	Supervisory board has two years to initiate forfeiture for less than honorable service; offender can ask for circuit court to make determination	Can become a new member if rehired
Wyoming	15-5-311; If a person receiving a benefit is convicted of a felony, benefits cease	Felony	No	Silent	Silent; specifies any person receiving a benefit	Implied that beneficiary could lose benefits by committing a felony	Applies only to person already receiving benefits	Silent	Silent	Silent	

ERS: Employees Retirement System
 IRS: Internal Revenue Service
 JRF: Judicial Retirement Fund
 TRS: Teachers' Retirement System