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SENATE BILL 339 State Employee and Retiree Health and Welfare Benefits Program – Participation (Reilly)

POSITION: OPPOSE

DATE: February 6, 2020

COMMITTEE: Senate Budget & Taxation Committee – Pension Subcommittee

SUMMARY OF BILL: SB 339 makes eligible for State retiree health insurance benefits an individual who was employed by Anne Arundel Community College (AACC) from August 2002 through November 2013 and was a participant in an Optional Retirement Program (ORP) while employed by AACC and who retired under an ORP from the University System of Maryland. Further, the determination for eligibility of retiree health insurance benefits is considered as having begun State service prior to July 1, 2011.

EXPLANATION OF POSITION: The Department of Budget and Management's (DBM) Employee Benefits Division (EBD) is responsible for administering the State Employee and Retiree Health and Welfare Benefits Program. As such, DBM is the agency that makes determinations of eligibility for State retiree health insurance benefits. These determinations are not made by State agency HR personnel or HR personnel within an independent personnel system, i.e. University System of Maryland. EBD typically receives retirement documentation from the State Retirement Agency in making retiree health insurance eligibility determinations.

The provisions of SB 339 are unique to an individual that interacted with EBD between December 19, 2018 and February 11, 2019, at which time the individual was advised based on review and consultation with DBM's assistant attorney general that prior service at a community college did not count toward the individual's State service for purposes of eligibility. The community college is not part of the State retirement system. At the time the individual was hired in 2013, the hiring agency provided inaccurate information regarding prior service at the community college being counted for retiree health insurance eligibility. In September 2018, the hiring agency again misinformed the individual, but shortly thereafter corrected its response. Subsequently, the individual sought final confirmation from EBD.

The DBM Secretary has a fiduciary duty in administering the State health plan. The bill establishes a precedent that affords State retiree health insurance benefits to an individual(s) based on a unique set of circumstances, rather than complying with the laws governing the employee and retiree benefit plans. As

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a matter of equity, any State employee similarly situated should also receive the benefit of their prior service with entities, regardless of whether that service was part of the State retirement system. The axiom, "bad facts make bad law" best describes DBM's opposition to SB 339.

For these reasons, DBM respectfully requests an unfavorable report.

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