

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Retirement and Pension System
(DLS Control No. 14-068)**

Overview and Legal and Fiscal Impact

The regulations provide definitions for contractual, emergency, and temporary extra employees that apply to State employees as well as employees of other participating employers. The definitions will assist the State Retirement Agency (SRA) in determining whether the employees of participating employers are being enrolled properly in the Employees' Pension System. Additionally, the regulations repeal an obsolete subsection regarding temporary pending employees. Finally, the regulations specify the time period in which a lecturer in the Overseas Division of University College may elect to join the Teachers' Pension System.

The regulations present no legal issues of concern.

There is no fiscal effect on State or local agencies.

Regulations of COMAR Affected

State Retirement and Pension System:

Membership: Membership in the Employees' System or the Teachers' System – General:
COMAR 22.04.02.02 and .04

Legal Analysis

Background

Membership in the Employees' Pension System is mandatory for individuals who are employed in certain positions and employers are required to enroll these employees in the system. However, contractual, emergency, or temporary extra employees are not eligible for membership in the Employees' Pension System; therefore, employers should not be enrolling these employees in the system.

The definitions of contractual, emergency, and temporary extra employees in the State Personnel and Pensions Article are used in the context of State employees but are generally silent regarding employees of other employers who participate in the Employees' Pension System, such as county governments or local boards of education. As a result, SRA has found it difficult to apply to other participating employers the requirements to enroll certain employees in the system and the prohibitions against enrolling contractual, emergency, or temporary extra employees.

Summary of Regulations

The regulations provide definitions for contractual, emergency, and temporary extra employees that are very similar to the definitions of contractual, emergency, and temporary extra employees in the State Personnel and Pensions Article; however, the definitions in the regulations are broad enough to cover State employees and employees of other participating employers. These definitions will assist SRA in determining whether other participating employers are complying with enrollment requirements and with prohibitions against enrollment for certain employees.

The regulations also repeal an obsolete subsection that referred to temporary pending employees who were appointed under Section 4-306 of the State Personnel and Pensions Article. Section 4-306 was repealed by Chapter 347 of 1996.

Finally, the regulations specify the time period in which a lecturer in the Overseas Division of University College may elect to join the Teachers' Pension System. Membership in the Teachers' Pension System is optional for an individual who is a lecturer in the Overseas Division of University College; however, if the individual elects to participate in system, the regulations require the election to be made within 90 days from the start of employment. The regulations also state that the election is a one-time irrevocable election, which is consistent with other provisions regarding optional membership in the Teachers' Pension System.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Board of Trustees of the State Retirement and Pension System (Board of Trustees) cites §§ 21-108, 21-110, 22-207, 23-205, and 23-209 of the State Personnel and Pensions Article as legal authority for the regulations. Section 21-108 states that the responsibility for the management, general administration, and proper operation of the several systems is vested in the Board of Trustees. Section 21-110 requires the Board of Trustees to adopt regulations that provide for the administration of the several systems and the transaction of its business. Sections 22-207 and 23-209 state that the Board of Trustees may deny membership or make membership optional for the Teachers' Retirement System or the Teachers' Pension System, respectively, for individuals whose compensation is paid only partly by the State or who are employed on a temporary basis. Section 23-205 gives the Board of Trustees the authority to make a determination regarding the eligibility of an individual for membership in the Employees' Pension System, if the individual's eligibility is unclear.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal effect on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations are technical in nature and primarily make clarifying changes to existing agency policies (as well as to conform to statute); therefore, they have no fiscal effect. The Department of Legislative Services concurs.

Impact on Budget

There is no effect on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The agency advises that the regulations have minimal or no economic effect on small businesses in the State. The Department of Legislative Services concurs.

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