

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 311

(Delegate Niemann)

Appropriations

Budget and Taxation

State Retirement and Pension System - Transfer of Service Credit

This bill allows an individual who transfers from a State or local pension system into one of the State systems, but does not petition to transfer prior service credit into the State system within the one-year window allowed under current law, to request a waiver of the one-year requirement from the executive director of the State Retirement Agency (SRA).

Uncodified language in the bill allows a limited number of employees in a county that participates in the Employees' Pension System (EPS) to transfer prior eligibility service from the State's contributory pension system to the noncontributory system.

The bill takes effect July 1, 2007, except that the uncodified portions of the bill terminate December 31, 2007.

Fiscal Summary

State Effect: No discernable effect on State pension contribution rates. SRA is aware of only two individuals who would be affected by the uncodified portions of the bill. SRA could process waiver requests stemming from this bill with existing resources.

Local Effect: Minimal. A participating governmental unit (PGU) that employs both of the individuals affected by this bill will absorb additional accrued pension liabilities of approximately \$170,000, resulting in an increased employer pension contribution of \$10,500 in FY 2008. The employer contribution is assumed to grow by 4% annually.

Small Business Effect: None.

Analysis

Bill Summary: If the SRA executive director rejects an individual's request for a waiver from the one-year requirement, the individual may appeal to the full Board of Trustees of the State Retirement and Pension System. The board must report annually to the Joint Committee on Pensions on the number of requests received and waivers granted.

The uncodified language affects individuals who (1) were employed by the Office of the Public Defender on or before June 30, 2007; and (2) are employed on or after July 1, 2007 by the State's Attorney's Office in a county that: • participates in EPS as a PGU; and • did not elect to participate in the contributory pension system; and (3) has been a member of the EPS for more than one year.

The bill allows these employees to transfer eligibility service credit earned in the Employees' Contributory Pension System while a State employee to the noncontributory portion of EPS in accordance with relevant State law.

Current Law: EPS has a contributory component and a noncontributory component. Prior to July 1, 2006, members of the contributory component paid 2% of their annual compensation and earned a benefit at the rate of 1.4% of their average final contribution (AFC) for each year of service since 1998, and 1.2% for each year of service before that. Following benefit enhancement legislation enacted in 2006 (Chapter 110 of 2006), members pay a 3% employee contribution in fiscal 2007, 4% in fiscal 2008, and 5% in fiscal 2009 and beyond. Their benefit for service credit earned since 1998 increases to 1.8% of AFC.

Under the noncontributory component, employees contribute 5% of the portion of their annual compensation that is higher than the Social Security Wage Base, which is \$97,500 in 2007. With most salaries below that level, most employees in the noncontributory component make no contribution toward their pension benefit. For each year of service, they earn a two-part benefit of 0.8% of their average final compensation below the Social Security Integration Level (SSIL) and 1.5% for average final compensation above the integration level. SSIL is the rolling 35-year average of Social Security Wage Bases and is approximately \$51,600 in 2007.

As the bill specifies, transfers of service credit from a State or local system to any State system are governed by Title 37 of the State Personnel and Pensions Article. Under Title 37, service credit transfers must occur within one year of becoming a member of the new system. An individual who does not file a petition to transfer prior service credit to a State system within the one-year window has no recourse other than to seek statutory redress from the General Assembly.

Background: Prior to 1998, EPS was noncontributory for most members. The contributory component of EPS was established by Chapter 530 of 1998 and applied to all future State employees. At the time, PGUs were given the option of joining the contributory system or remaining in the noncontributory system. All but nine PGUs opted for the contributory system. Chapter 110 of 2006 gave PGUs until June 30, 2007 to elect to participate in the enhanced benefits under the Alternate Contributory Pension System (ACPS). To date, all but eight PGUs have elected to participate in ACPS.

State Fiscal Effect: The General Assembly typically hears fewer than 10 bills each session that seek to allow service credit transfers for individuals who did not submit their requests within the one-year window. Given this limited number of cases, SRA believes it can process waiver requests with existing resources.

Local Fiscal Effect: The State Retirement Agency (SRA) is aware of two individuals who meet the criteria specified by the bill's uncodified language, both employed by Prince George's County. Both joined the noncontributory system more than one year ago and were erroneously advised by their employer that they did not need to take action to transfer their credits from the contributory system to the noncontributory system. It was only after the one-year window had closed that they learned that they needed to submit a transfer request in writing. SRA provided age, service credit, and income data on only one of the two individuals:

- 46 years of age;
- 45 months of accumulated service credit in the EPS contributory plan; and
- current annual compensation of \$97,000.

The actuarial analysis of this bill assumes that the second individual has an identical profile. Assuming both individuals transfer from the State contributory plan to the PGU's noncontributory plan, the PGU's accrued pension liability will increase by \$170,000, resulting in a \$10,500 increase in pension contributions in fiscal 2008. This amount is expected to grow by 4% annually.

The two affected individuals will receive a refund of their accumulated contributions under the contributory portion of EPS and receive the reduced pension benefits under the noncontributory system. Based on information provided by SRA, the Department of Legislative Services estimates that the refunds will be approximately \$7,000 for each individual.

Additional Information

Prior Introductions: HB 844 of 2006 passed the House, but the Senate Budget and Taxation Committee took no action after hearing the bill.

Cross File: SB 243 (Senator Britt) – Budget and Taxation.

Information Source(s): Mercer Human Resources Consulting, Maryland State Retirement Agency, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2007
mll/jr Revised - House Third Reader - March 23, 2007

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