

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 960

(Senator McFadden)

Budget and Taxation

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**State Retirement and Pension System - Deceased Retiree's Retirement  
Application - Medical Board Review**

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This bill allows the surviving spouse of a deceased retiree of the State Retirement and Pension System (SRPS) who selected the basic allowance at the time of retirement to challenge the deceased retiree's mental capacity at the time of the selection, as long as the appeal is filed within six months of the retiree's death. The bill requires the SRPS medical board to review the spouse's appeal; if the medical board certifies that the deceased retiree was mentally incapacitated, the Board of Trustees must refund the retiree's remaining employee contributions, plus interest, to the surviving spouse. If the medical board finds that the deceased retiree was not mentally incapacitated, the surviving spouse cannot appeal that decision.

The bill takes effect July 1, 2009, and applies retroactively to any retiree of the Employees' Retirement System (ERS) or Employees' Pension System (EPS) who retired on or after May 1, 2006, and died within 18 months of retiring.

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**Fiscal Summary**

**State Effect:** Potential significant increase in State pension liabilities and contribution rates, to the extent that eligible spouses file successful appeals. Based on the assumptions that 5% of eligible spouses file successful appeals, State pension liabilities increase by \$1.2 million and contributions increase by \$109,000 in FY 2011. Those costs are assumed to be allocated 60% general funds, 20% special funds, and 20% federal funds. Potential meaningful increase in special fund expenditures by the State Retirement Agency (SRA), beginning in FY 2010, to compensate medical board members for additional meetings to hear appeals.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	65,400	67,800	70,200	72,600
SF Expenditure	-	21,800	22,600	23,400	24,200
FF Expenditure	0	21,800	22,600	23,400	24,200
Net Effect	\$0	(\$109,000)	(\$113,000)	(\$117,000)	(\$121,000)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Minimal effect on pension liabilities or contribution rates for participating governmental units.

**Small Business Effect:** None.

## Analysis

**Current Law:** At retirement, members of the Teachers' Pension System, Teachers' Retirement System, EPS, ERS, and Correctional Officers' Retirement System may choose from among six alternatives to the basic allowance (maximum benefit) in order to provide a survivor benefit for a surviving spouse, child, or other beneficiary. The survivor options are available to retirees of the State Police Retirement System (SPRS) only if they do not have a spouse or dependent children at the time of retirement, and to retirees of the Judges' Retirement System (JRS) if they do not have a spouse at the time of retirement. In most State plans, retirees who select one of the six survivor options are subject to an actuarially determined reduction in their monthly benefit payments to account for the additional payments that will be made following their death. However, SPRS and JRS retirees with spouses receive an automatic joint and survivor option with no reduction to the maximum benefit.

Of the six options, Option 1 pays the balance of the actuarial equivalent present value of the retiree's basic allowance at the time of retirement in a lump sum payment to the beneficiary or the retiree's estate. Option 2 provides a 100% survivor benefit in which the beneficiary receives 100% of the reduced benefit payment the retiree had been receiving prior to death. Option 3 provides a 50% survivor benefit in which the beneficiary receives half of the reduced benefit payment. Option 4 pays the balance of the retiree's accumulated contributions at the time of retirement, if any, in a lump sum payment to the beneficiary or the retiree's estate. Option 5 provides a 100% survivor benefit, except that if the beneficiary predeceases the retiree, the retiree begins receiving the basic (unreduced) allowance. Similarly, Option 6 provides a 50% survivor benefit with a "pop up" to the basic allowance if the beneficiary predeceases the retiree.

Once a retiree makes a selection of the basic allowance or one of the six options, the selection may not be changed after the first benefit payment is made.

The SRPS board is authorized to establish one or more three-member medical boards to (1) approve all medical examinations required under State pension law; (2) investigate certificates and statements made by or on behalf of applicants for disability benefits; and (3) report its findings to the board.

**Background:** SRPS has two three-member medical boards that meet biweekly on an alternating schedule. Members receive \$200 per meeting, for a total weekly cost of \$600.

Option 4 provides the survivor benefit provided to spouses that successfully appeal the option selection made at the time of retirement. Typically, retirement allowances for retirees who select Option 4 are reduced by between 2% and 10% from the maximum allowance, depending in part on age at retirement.

Thirty-five percent of current retirees (39,344) receive the maximum benefit based on their decision at retirement. The General Assembly's consulting actuary has determined that 61.5% of those retirees, or 24,200 retirees, were married at the time of retirement.

**State Fiscal Effect:** Based on the data provided above, more than 24,000 spouses of deceased retirees may be eligible to appeal their spouse's selection of the maximum benefit, including about 30 surviving spouses eligible to file an appeal under the bill's retroactive provision. Legislative Services believes that only a fraction of surviving spouses will actually file an appeal because the appeal must provide medical evidence that the deceased spouse was mentally incapacitated at the time of retirement, and very few likely have evidence to that effect. The number of successful appeals is expected to be even smaller. To the extent that the number of appeals requires the SRPS medical boards to meet more often than they do now, special fund expenditures by SRA increase to compensate members for those meetings.

Successful appeals add to the retirement system's liabilities because they allow the retiree to collect an unreduced benefit while still providing a survivor benefit upon the retiree's death. The value of the total benefit provided to the retiree and spouse is therefore greater than projected by the system's actuarial valuations. Legislative Services assumes that 5% of eligible spouses successfully appeal their spouse's selection of the unreduced single life benefit during fiscal 2010. Based on that assumption, the actuary has determined that State pension liabilities increase by \$1.2 million and normal costs increase by \$27,000. Amortizing the liabilities over 25 years and adding the normal cost payments result in the State pension contribution increasing by \$109,000 in fiscal 2011. To the extent that more or fewer spouses file successful appeals, the costs may increase or decrease.

Both SRA and the actuary note the difficulty of using medical records to retroactively determine an individual's mental status. In the event that the medical board cannot make valid determinations based on available data, the board of trustees may opt to either grant all appeals or deny all appeals. Granting all appeals will significantly increase the cost of the bill to the system by effectively allowing all retirees to select the single life option and still enable their spouses to collect a survivor benefit. Denying all appeals will eliminate any cost associated with the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 11, 2009  
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