Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Joint Resolution 12 (Delegate Frank)
Appropriations

General Assembly Compensation Commission - Recommendations - Employees' Pension System

This joint resolution rejects the recommendations of the General Assembly Compensation Commission (GACC) regarding (1) changes in the salary received by members and Presiding Officers of the General Assembly; (2) the allowance for in-district travel and reimbursement for out-of-state travel; and (3) benefits available under the Legislative Pension Plan. In addition, it closes the Legislative Pension Plan (LPP) as of January 1, 2011, and requires current and future members of the General Assembly to join the Employees' Pension System (EPS).

Fiscal Summary

State Effect: State pension liabilities decrease by approximately $3.3 million, and the normal cost decreases by approximately $680,000 due to the transfer of current and future LPP members to EPS. Amortizing the decreased liability over 25 years and adding the annual decrease in the normal cost results in State pension contributions decreasing by approximately $967,000 in FY 2012. LPP contributions are paid entirely by general funds. Out-year savings reflect actuarial assumptions. Other provisions of the joint resolution have no effect on State finances.

($ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	$0	$0	$0	$0	$0
GF Expenditure	0	.97	1.00	1.04	1.07
Net Effect	$.00	($.97)	($1.00)	($1.04)	($1.07)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Provisions of the GACC resolution related to compensation for members of the General Assembly and the Presiding Officers and to reimbursement of expenses related to official out-of-state travel remain as provided in the resolution of the General Assembly Compensation Commission dated January 6, 2006. Provisions related to the allowance for in-district travel and optional retirement allowances are as provided in the resolution of the General Assembly Compensation Commission dated January 11, 2002.

Current LPP members with at least eight years of creditable service (*i.e.*, those vested under the plan) may not transfer service credit to EPS. When they retire, they receive a retirement allowance based on their creditable service in LPP prior to joining EPS in accordance with current LPP provisions, except for members who join the Judges' Retirement System after resigning from the General Assembly. Current LPP members with less than eight years of service at the time they are required to join EPS may (1) purchase additional service credit under current rules; (2) request a return of their member contributions, plus interest; or (3) transfer their LPP service credit to EPS.

LPP members with at least 22 years and 3 months of LPP service credit may not join EPS.

Current Law:

General Assembly Compensation Commission

A constitutional amendment, approved by the voters in 1970, created the nine-member GACC and specified that the commission submit salary and allowance recommendations to the legislature every four years. Members of the General Assembly and State and local government officers and employees are not eligible for appointment to the commission.

The constitutional provisions, Article III, Section 15, provide that:

- The compensation commission must submit its compensation, allowances, and pension recommendations to the General Assembly by formal resolution within 15 days after the beginning of the last regular General Assembly session in a four-year term of office. In 2010, the commission was required to submit its resolution proposing compensation and allowances for the 2011-2014 General Assembly term by January 27, 2010.
- Rates of compensation and pensions must be uniform for all members of the General Assembly, except that the officers of the Senate and the House of Delegates (traditionally, the President and the Speaker) may receive higher compensation.

- Compensation allowances may not be less than the dollar amounts prior to the establishment of the first compensation commission in 1970.
- Through a joint resolution, the General Assembly may reduce or reject, but may not increase, any item in the resolution.
- The commission's resolution, with any reductions concurred in by joint resolution of the General Assembly, has the force of law and takes effect at the beginning of the next General Assembly.
- The provisions of each resolution govern until superseded by a subsequent resolution.

The Maryland Constitution, as interpreted by the Attorney General, gives GACC exclusive jurisdiction over salaries, meal and lodging expense allowances, travel allowances, employee benefit programs, and the legislative retirement system. This exclusive jurisdiction extends only to payments made to the legislators themselves.

The *Report of the General Assembly Compensation Commission*, published on January 12, 2010, contains exhibits that set forth the process and timeline by which a resolution takes effect, and summarize the commission's 10 preceding resolutions.

Legislative Pension Plan

LPP is the only pension plan administered by the State Retirement and Pension System that is optional for eligible members; all other plans are required for eligible members as a condition of their employment. Only elected members of the General Assembly are eligible for membership in LPP. LPP members contribute 5% of their salary for up to 22 years and 3 months; contributions are not required beyond that time. They are vested in the plan after eight years (two terms). Vested members are eligible for a full-service retirement allowance upon reaching age 60, as long as they are no longer serving in the General Assembly. Their annual retirement allowance is 3% of the salary of a current member of the General Assembly for each year of service credit, but is capped at two-thirds of the salary of a current member.

For the purpose of calculating employer contributions, LPP is combined with the Employees' Retirement System (ERS), EPS, and Correctional Officers' Retirement System for the annual actuarial valuation.

Employees' Pension System

EPS was established in 1980 to provide a defined benefit retirement plan for regular State employees. State employees who are not judges or public safety personnel are members of EPS as a condition of their employment. **Exhibit 1** shows key features of EPS and LPP.

Exhibit 1
Comparison of Maryland State Retirement Plans

	EPS	LPP
Vesting	5 years of service	8 years of service
Employee Contribution	5% of salary	5% of salary (for 22 years, 3 months)
Service Retirement Conditions	Age 62 or 30 years	Age 60
Retirement Allowance	1.8% of salary for years of service after 7/1/98; plus 1.2% of salary for years of service prior to 7/1/98	3% of current legislative salary per year of service
Post Retirement Adjustments	Limited to 3% annual COLA	Based on salary of active legislators

Source: Department of Legislative Services

Background: The 2010 General Assembly Compensation Commission report recommends that salaries remain at current levels for the first two years of the next term of office – $43,500 for members and $56,500 for Presiding Officers. The commission also recommends that, if the State's annual unemployment rate is 5% or lower for calendar 2012, the salary for members of the General Assembly increases to $45,500 on January 1, 2013, and remains at that level for calendar 2014. A similar $2,000 increase also takes effect for the Presiding Officers, to $58,500. If the State unemployment rate for calendar 2012 is greater than 5%, but is 5% or lower for calendar 2013, the salary for members of the General Assembly increases to $45,500 only for calendar 2014. Compensation for Presiding Officers also increases by $2,000 under those conditions.

Regarding expense reimbursements and allowances, the commission recommends that the annual in-district travel allowance increases from $500 to $650; the General Assembly previously rejected an increase from $500 to $600 recommended by the

2006 commission. The commission's resolution also replaces the current $225 per day limit for reimbursement of approved out-of-state travel expenses with a requirement that such reimbursements be subject to the most current published federal General Services Administration (GSA) daily per diem rates for meals and lodging. The 18-city average reimbursement rate of $222 under the GSA schedule is comparable to the current $225 limit.

The commission recommends two changes to the Legislative Pension Plan. First, members who have served, or currently serve, in the active-duty military are eligible to claim up to three years of military service credit after accruing eight years of creditable service in LPP. Second, the commission's resolution repeals or amends two optional forms of retirement allowances due to Internal Revenue Service concerns that the optional allowances put the plan's tax-exempt status at risk; similar changes were made to the employees' and teachers' plans administered by the State Retirement and Pension System. The commission also recommends continuation of the current resolution with respect to health and other benefits that are generally available to State employees.

State Fiscal Effect: As shown in Exhibit 1, significant differences exist between LPP and EPS. Of all the plan variables, however, only the vesting term under EPS (five years, compared with eight years under LPP) can be considered more favorable to its members than comparable features under LPP. Employee contributions under the two plans are identical, but LPP members stop paying after 22 years and 3 months. LPP members can retire sooner than EPS members, and the LPP benefit multiplier is substantially higher than the multiplier for EPS members. In addition, EPS retirees are subject to an actuarial reduction to their retirement allowance if they elect to provide a survivor benefit for a spouse or beneficiary; LPP members are not subject to a similar reduction, so the cost of providing a survivor benefit is greater under LPP than EPS.

According to the General Assembly's consulting actuary, all of these factors combine to make the LPP benefit more generous to its members than an EPS benefit. Based on the actuary's projections, State pension liabilities are reduced by approximately $3.3 million and the normal cost is reduced by approximately $680,000, beginning in fiscal 2012. Amortizing the reduction in liabilities over 25 years and adding the reduced normal costs results in State pension contributions decreasing by $967,000 in fiscal 2012; those savings increase annually according to actuarial assumptions.

The Office of the Attorney General (OAG) has raised questions about the legality of the resolution's provisions. Specifically, OAG cites precedents that suggest that the mandatory transfer from LPP to EPS may represent an impairment of contract. OAG also cites potential constitutional conflicts stemming from having members of the General Assembly become members of EPS. The constitution prohibits the salary or compensation of any public official (including members of the General Assembly) from being altered during a four-year term, except those whose term of office is fixed by law in excess of four years. However, the General Assembly frequently considers bills that alter EPS benefits, which would have the tangential effect of altering their own benefits. If EPS benefits were increased, this might be found to be an unconstitutional increase. OAG concludes that "it would be nearly impossible to administer [EPS] because of the requirements of….the Maryland Constitution."

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/rhh

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