SB 902

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 902 (Senator McFadden)
Budget and Taxation

State Employee and Retiree Health and Welfare Benefits Program - Attorney Grievance Commission and the Client Protection Fund of the Bar of Maryland - Eligibility for Enrollment and Participation

This bill authorizes employees of the Attorney Grievance Commission and the Client Protection Fund of the Bar of Maryland who work at least 50% of a regular workweek and regularly are paid a salary or wage, and retirees, to enroll in the State Employee and Retiree Health and Welfare Benefits Program (the State health plan). The commission and fund, respectively, are responsible for paying the full cost of their employees' and retirees' participation in the plan.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: There is no direct cost to the State because the commission and the fund pay the full premiums for their employees and retirees. However, to the extent that claims costs for their employees exceed premiums paid in a given year, State expenditures increase. Adding retirees to the plan increases the State's long-term retiree health liabilities under accounting standards issued by the Governmental Accounting Standards Board (GASB).

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In general, only State employees and retirees may enroll and participate in the health insurance benefit options established under the State health plan. Employees and retirees of the Maryland Environmental Service and the Northeast Maryland Waste Disposal Authority may participate in the State health plan. In addition, employees (but not retirees) of the following organizations may participate as satellite organizations, subject to the approval of their employers:

- county and municipal governments;
- not-for-profit organizations that receive more than one-third of their operating expenses from the Department of Health and Mental Hygiene (DHMH);
- Legal Aid Bureau;
- Tri-County Council for Southern Maryland;
- Tri-County Council for Western Maryland;
- Tri-County Council for the Lower Eastern Shore of Maryland; and
- Mid-Shore Regional Council.

In each case, the employers are responsible for paying the full premium amounts to the State, subject to any employee cost-sharing they establish. Neither the commission nor the fund qualify under these criteria.

The State subsidizes 80% of the health insurance premiums for all State employees.

A retired State employee may enroll in the State health plan and receive the same health benefits and premium subsidies provided to a State employee if the retiree:

- ended State service with at least 10 years of creditable service and within 5 years before the age at which he/she would be eligible to retire;
- ended State service with at least 16 years of creditable service;
- ended State service on or before June 30, 1984;
- retired directly from State service with a State retirement allowance on or after July 1, 1984, and had at least 5 years of creditable service; or
- retired directly from State service with a State disability retirement allowance on or after July 1, 1984.

The surviving spouse or dependent child of a deceased retiree may also participate in the program as long as the spouse or child receives a regular survivor's pension payment from the State. Depending on the health plan selected, the State subsidizes 80% or

85% of the premium for all retirees with at least 16 years of service credit; retirees with between 10 and 16 years receive a prorated subsidy.

Background: The State health plan is self-insured, which means that the State bears the full risk if claims costs exceed the plan's revenues (collected in the form of employer and employee premiums).

Accounting standards issued by GASB (Statement 45 in 2004) require governmental employers to account for liabilities associated with the employers' commitment to what is referred to as Other Post Employment Benefits (OPEB) such as retiree health insurance. Under these standards, Maryland was required to account for these OPEB liabilities on its balance sheet at the conclusion of fiscal 2008. If the State carries large unfunded OPEB liabilities on its balance sheet, bond rating agencies could downgrade the State's bond rating from its long-held AAA status, costing the State millions of dollars in interest payments on its general obligation bonds. In response to a recommendation by a previous task force, Chapter 433 of 2006 established the Blue Ribbon Commission to Study Retiree Health Care Funding Options and authorized it to commission annual valuations of the State's OPEB liabilities. As of June 30, 2009, State OPEB liabilities are $15.2 billion over the next 30 years.

The Attorney Grievance Commission was established in 1975 by rule of the Court of Appeals to investigate and adjudicate complaints against lawyers practicing in Maryland. The commission approves all recommendations for dismissal or reprimand made by the Bar Counsel or Peer Review Panels, and may direct that public charges be filed against an attorney. It is funded by annual assessments paid by attorneys who practice in the State.

The Client Protection Fund was created in 1966 by the Court of Appeals to reimburse losses caused by theft of money by members of the Bar of the State of Maryland when acting as attorneys or fiduciaries. The fund receives its revenue from the same attorney assessment that funds the commission.

Together, the commission and the fund employ 33 employees, who are not State employees and not members of any State retirement or pension system plan.

State Fiscal Effect: In many governmental health plans, including Maryland's, GASB recognizes what it calls an implicit subsidy. The State's member pool for its health plan includes all active and retired employees, and all non-Medicare eligible participants (active and retired) receive the same benefits and pay the same premiums (employer and member). However, on average, retirees are more expensive to cover than active employees. This leads to the implicit subsidy for retirees because their premiums are the same as active employees even though their claims' costs tend to be higher. Under

GASB rules, the implicit subsidy contributes to the State's OPEB liability even if an employer pays the full premium because the premium underfunds a retiree's claims' costs. Therefore, at a minimum, the addition of new retirees to the State's health plan increases its unfunded liability by the amount of the implicit subsidy. The Blue Ribbon Commission's actuary estimates that the implicit subsidy increases the State's unfunded OPEB liabilities by about $59,000 per person.

The State currently pays for retiree health costs on a pay-as-you-go basis, so there is no immediate effect on State expenditures by virtue of adding commission and fund retirees to the plan. However, if the State chooses to begin prefunding its OPEB obligations, the additional liabilities from the implicit subsidy will increase State expenditures.

Additional Comments: The Department of Budget and Management advises that the addition of nongovernmental employees and retirees to the State health plan may jeopardize its exemption under the federal Employee Retirement Income Security Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Attorney Grievance Commission, Department of Legislative Services

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