

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 946 (Senator McFadden)
Budget and Taxation

**State Retirement and Pension System - Deceased Retiree's Retirement Application
- Retiree's Mental Incapacity**

This bill authorizes the surviving spouse of a deceased retiree of the State Retirement and Pension System (SRPS) who selected the basic allowance to submit an application to the system for the return of the retiree's remaining contributions, plus interest.

The bill takes effect July 1, 2010, and applies retroactively to any retiree who retired on or after May 1, 2006, and who died within 18 months of retiring.

Fiscal Summary

State Effect: The number of eligible surviving spouses who successfully apply for the return of unpaid member contributions cannot be reliably estimated. State pension liabilities increase by approximately \$43,600 and the normal cost increases by \$3,800 for each 1% of eligible surviving spouses who receive a refund of unpaid member contributions. Therefore, State pension contributions increase by about \$7,000 annually for each 1% who receive a refund of unpaid member contributions.

Local Effect: Participating governmental unit (PGU) annual pension contributions increase by about \$700 for each 1% of surviving spouses who receive a refund. Those costs are divided among approximately 120 PGUs.

Small Business Effect: None.

Analysis

Bill Summary: The application submitted by the surviving spouse must be submitted within six months of the retiree's death and include a certification signed by two physicians that the retiree was mentally incapacitated at the time the retiree completed his or her application for retirement. In determining the retiree's mental state, the physicians may consider contributing medical conditions, including concussions, paraneoplastic syndrome, or the systemic spread of cancer.

If the SRPS medical board authenticates the certification of mental incapacity, and the Board of Trustees confirms that the applicant is the retiree's surviving spouse, the board must refund any remaining member contributions to the surviving spouse.

The board must develop regulations to implement the bill's provisions.

Current Law: At retirement, members of the Teachers' Pension System, Teachers' Retirement System, Employees' Pension System, Employees' Retirement System, and Correctional Officers' Retirement System are entitled to a basic retirement allowance based on the benefit formula in statute. Under the basic allowance, their spouses are not entitled to any continued benefit payment if the retiree predeceases them. However, at retirement, the retirees may choose from among six alternatives to the basic (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 if their spouses outlive them. 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.

Background: SRPS maintains separate funds for employer and employee contributions. Employer contributions are deposited in an accumulation fund and earn interest. Upon retirement, benefits paid from the accumulation fund are paid out as a defined benefit pension according to the relevant benefit formula. Employee contributions are deposited into an annuity savings fund and also earn interest. Upon retirement, the funds are transferred to the accumulation fund and paid out as an annuity that supplements the pension paid from employer contributions.

The State Retirement Agency is aware of at least one individual who otherwise would be eligible to submit have an application under the bill's retroactive provision, except that more than six months have passed since the death of her spouse in October 2007. Therefore, she cannot submit an application, and her case has no bearing on the bill's fiscal effect. However, if the bill were to apply to her case and the necessary medical certificates were provided, she would be eligible for a lump sum payment of approximately \$400,000.

Of the 116,007 SRPS retirees as of June 30, 2009, 40,747 (35%) selected the basic (maximum) allowance with no survivor option. The General Assembly's actuary advises that almost two-thirds of those retirees (61.5%) were married at the time of retirement.

State Fiscal Effect: Neither the State Retirement Agency (SRA) nor the Department of Legislative Services (DLS) can project how many surviving spouses will submit valid applications requesting the return of unpaid member contributions upon the death of their spouse. Using mortality rates and other member demographic information, the General Assembly's consulting actuary can estimate the number of members who die before their employee contributions have been paid out in full in the form of annuity payments.

DLS notes that SRA and the medical board have only a limited role in reviewing surviving spouses' applications for the return of unpaid member contributions. The medical board may only validate the authenticity of the certification (*i.e.*, whether the doctors making the claims are qualified to make the claims). The board is not authorized to review whether a claim is supported by the member's medical records. Therefore, DLS believes that a significant proportion of surviving spouses whose spouses die leaving behind unpaid member contributions may file applications for the return of those contributions, although a reliable estimate is not possible.

The actuary has determined that for every 1% of eligible surviving spouses who successfully file an application for the return of unpaid member contributions, State pension liabilities increase by \$43,600 and State pension contributions increase by approximately \$7,000 annually. Given limited review by SRA and the medical board,

and the potential for a significant payment of a lump sum benefit, DLS expects that more than 1% of eligible spouses file successful applications.

Local Fiscal Effect: Local pension liabilities for PGUs increase by about \$4,000 and the normal cost increases by about \$380 for each 1% of surviving spouses who successfully apply for the return of unpaid member contributions. PGU annual contributions increase by about \$700 for each 1% of surviving spouses who receive a refund. Those costs are divided among approximately 120 PGUs.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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