SB 508

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 508 (Senator McFadden)(Chair, Joint Committee on Pensions)
Budget and Taxation Appropriations

Employees' Retirement and Pension Systems - Maryland School for the Deaf Retirees - Overpayment of Benefits

This bill freezes temporarily, instead of reducing, the retirement allowances for retirees of the Employees' Pension System (EPS) or Employees' Retirement System (ERS) who previously worked for the Maryland School for the Deaf (MSD) and had their retirement benefits miscalculated.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: State pension liabilities increase by $199,600; amortizing those liabilities over 25 years yields a $13,300 increase in State pension contributions in FY 2012. That cost is expected to increase annually according to actuarial assumptions and is allocated 60% general funds, 20% special funds, and 20% federal funds. These results may be slightly understated due to potentially incomplete data provided by the Maryland State Retirement Agency (SRA) and to the extent that affected retirees may have chosen to provide survivor benefits. No effect on revenues.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	$0	$0	$0	$0	$0
GF Expenditure	0	8,000	8,300	8,600	8,900
SF Expenditure	0	2,700	2,800	2,900	3,000
FF Expenditure	0	2,700	2,800	2,900	3,000
Net Effect	$0	($13,300)	($13,800)	($14,300)	($14,800)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Retirement allowances for affected retirees who retired on or before June 30, 2009, remain frozen at their current, higher levels until the allowances the retirees are entitled to receive, including annual cost-of-living adjustments, equal the allowances they are receiving on July 1, 2010. If an affected retiree dies before the total retirement allowance the retiree is entitled to receive equals the actual benefit paid and the retiree has selected an optional allowance that provides for a survivor benefit, the survivor allowance for the beneficiary is calculated on the retiree's corrected allowance.

The bill also reaffirms that the State Retirement and Pension System (SRPS) may elect to forgive any past improper overpayment received by the same retirees.

Current Law: If, because of an error in SRPS records, a retiree receives a retirement allowance that differs from the benefit to which the retiree is entitled, the Board of Trustees must correct the error and, to the extent practicable, adjust future payments to provide the actuarially equivalent benefit. If the error results in an overpayment to a retiree, the board is authorized, but is not required, to recover the amount of the overpayment. If the retiree does not refund the overpayment, SRPS may adjust future monthly benefits to recover the amount owed.

Background: During summer 2009, Maryland State Retirement Agency staff learned that retirement benefits for approximately 50 retirees of ERS/EPS had been miscalculated, resulting in overpayments to the retirees. In some cases, the miscalculations dated back at least 20 years. All of the affected retirees had been 10-month employees of the Maryland School for the Deaf, but the salaries reported to the system had been overstated because they were reported as 12-month equivalent salaries. MSD explained that, because the State salary schedule does not include a 10-month schedule, all salaries are recorded as full-year equivalents. It was the (higher) 12-month salaries that had been reported to SRPS for MSD employees going back many years. At the time of retirement, the system calculated their benefits based on the inflated salaries.

The extent of the monthly overpayments for MSD retirees ranges from a low of $15.21 for one retiree to more than $350 for four retirees, with a median monthly overpayment of $91. The total amount of overpayment as of June 2009, when the error was discovered and corrected prospectively, is estimated to be about $490,000. Under its current authority, the board has already approved a measure to forgive the past overpayment and not seek reimbursement from affected retirees. However, current law requires the board to adjust benefit payments going forward; the board postponed any future adjustment until April 2010.

State Fiscal Effect: SRA advises that 46 MSD retirees were affected by the miscalculation of benefits but provided detailed information on just 39 retirees. To the extent that the data provided by SRA are somewhat incomplete, the bill's fiscal effect may be slightly understated.

The bill's fiscal effect stems from the difference between the allowance currently being paid to affected retirees, which will be frozen at current levels, and the reduced allowance they should be paid. In the absence of the bill, SRPS would reduce future allowances to reflect the retirees' lower compensation at the time of retirement. By freezing them at current levels until future cost-of-living adjustments bring their allowances up to where they are now, the bill maintains the overpayments and adds to pension system liabilities.

Based on mortality rates and other assumptions adopted by SRPS, the General Assembly's actuary has calculated the probability of future payments to each of 39 retirees for whom data was provided to determine the extent to which overpayments are extended into the future. Based on those projections, the actuary estimates that State pension liabilities increase by $199,600. Amortizing those liabilities over 25 years results in State pension contributions increasing by $13,300 in fiscal 2012. That cost increases annually according to actuarial assumptions and is assumed to be allocated 60% general funds, 20% special funds, and 20% federal funds.

These findings are based on the assumption that all of the retirees are receiving a basic (full) allowance without survivor benefits. If all of them are instead receiving optional allowances with survivor benefits, the bill's costs increase by 5% to 10%.

The General Assembly's actuary notes that the board's decision to forgive past overpayments maintains a $33,000 increase in State pension contributions in fiscal 2012. That cost is not included in this analysis because the board's decision was authorized by current law.

Additional Information

Prior Introductions: None.

Cross File: HB 768 (Delegate Griffith, *et al.*) (Chair, Joint Committee on Pensions) - Appropriations.

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

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