

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 435
Appropriations

(Delegate Bohanan)

Budget and Taxation

Optional Retirement Program - Supplemental Retirement Plans - Employee
Contributions

This bill clarifies that contributions made by an employing institution under the Optional Retirement Program (ORP) to a supplemental retirement plan on behalf of an employee must be allowed by any provision of the federal Internal Revenue Code and be authorized by the employing institution.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None. The bill is technical in nature and does not affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Only employees of employing institutions are eligible to join ORP. Employing institutions include:

- University System of Maryland;
- Morgan State University;
- St. Mary's College of Maryland;
- the Maryland Higher Education Commission (MHEC); and
- community colleges or regional community colleges.

Eligible employees of employing institutions have the option of joining ORP rather than enrolling in the State Retirement and Pension System (SRPS). ORP is a defined contribution program that provides an employer contribution of 7.25% of a member's compensation, which is paid by the State. Unlike SRPS plans, there is no mandated employee contribution in ORP. Instead, employing institutions are authorized to establish supplemental retirement plans in accordance with §§ 401(a), 403(b) or 457 of the Internal Revenue Code, or any other provision of law that authorizes the establishment of supplemental retirement plans that allow employees to contribute to retirement accounts on a tax-deferred basis.

Contributions to a supplemental retirement plan made by an employing institution on behalf of an employee may be made by payroll deduction, a reduction in salary, or deferral in compensation in accordance with §§ 403(b), 457, or 414(h) of the Internal Revenue Code.

Background: Chapter 617 of 2006 exempted St. Mary's College of Maryland (SMCM) from the State's Optional Defined Contribution System, which provides an employer matching contribution up to \$600 to State employees who are members of the Employees' Pension System or Employees' Retirement System and who contribute to a supplemental retirement plan. Chapter 617 also authorized SMCM to operate its own employer matching program for its employees. The college provides an employer matching contribution in the form of a deposit to employees' 403(b) supplemental accounts, which is not normally allowed under that portion of the Internal Revenue Code, but is allowed under other provisions of the Code. Therefore, the Office of the Attorney General advises that the technical change made by the bill is necessary for SMCM to be in compliance with federal law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Maryland Supplemental Retirement Plans, St. Mary's College of Maryland, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2011
ncs/rhh

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